THE NEW COUNTY COURT RULES p. 865

The Solicitors' Journal

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14th October, 1936.

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The Solicitors' Journal

VOL. LXXX. **Saturday, October 31, 1936.** No. 44

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Current Topics.

Lord Hanworth.

It is with deep regret that we record the death of Lord Hanworth which took place at Hythe, Kent, on the 22nd of this month. For members of the legal profession his name will always be associated with the reforms carried out as a result of the work of the Business of the Courts and the Law Revision Committees of which he was chairman, while his untiring activities as custodian of the nation's records will earn for him a not less enduring memorial in the wider field of scholarship and historical research. An appreciation appears on page 864 of the present issue.

County Court Judges.

The announcement of the appointment to the County Court Bench of Mr. Digby Cotes-Preedy, K.C., and Mr. Reginald Clare Essenhigh will be heartily approved by the profession, as both appointees are eminently qualified for the varied tasks which will fall to them in their new posts. Ninety years ago the county courts as we know them were established by the statute 9 & 10 Vict. c. 95, and it can be said that few legislative measures affecting the administration of justice has so amply justified itself. It is true, as Professor Jenks points out in his Book of English Law, that the name "County Court" is misleading, for the statutory tribunals set up in 1846 are not part of the county organisation, nor are their powers at all analogous to those of the ancient shire or county court whose name they bear; but anomalies in nomenclature run throughout the whole of our judicial and administrative systems, and although the title of these tribunals is thus susceptible of criticism, they have achieved their *raison d'etre* of bringing justice within easy reach of the inhabitants of each locality throughout the land. With regard to appointments to the county court bench, it is sometimes said to be a very modern innovation for a King's Counsel to accept the post of judge in these tribunals. This is an error. Among the original appointees were several Serjeants-at-Law and Queen's Counsel, and during the subsequent years there were always members of the Inner Bar who did not consider that it derogated from their dignity to accept the office of county court judge, and among these it may be of interest to recall the name of Thomas Hughes, whose title to fame rests however on the fact of his authorship of that classic of school life, "Tom Brown's School Days." It has sometimes been urged that service on the county court bench should be regarded as a kind of apprenticeship for the more exalted post of judgeship on the Bench of the High Court. On this point, however, we are aware that there is a marked divergence of opinion in the profession.

Magistrates' Association Conference.

Proceedings at the annual conference of the Magistrates' Association, which was held at Guildhall some ten days ago, are reported on p. 878 of the present issue. While, therefore, detailed treatment is unnecessary, it is thought that brief reference to some of the points raised may, in view of their importance and interest, conveniently be made here. Sir John Simon made reference to comments and criticisms of an unpaid magistracy and to those who advocate its elimination in favour of the extension of the system of professional stipendiaries, and, while making no pronouncement of policy either on his own behalf or on behalf of anybody else, enumerated as one who had "a profound belief in the essential good sense which lies at the back of most of our British institutions" some of the considerations which ought to be weighed if one were going to discuss such a subject, much less pronounce a conclusion upon it, with knowledge and fairness. One of the effects of turning the whole of the magistracy of the country into a separate and professional service, directed by a government department, would, it was urged, be the introduction of the conception of promotion from the lowest rank upwards under the direction of some executive authority. Reference was made to the deep tradition that once a man sat on the Bench he ought to be in a position where he was no longer concerned with his future prospects. The conception of a judge as one who had reached the end of his ambition when he mounted the Bench would be adversely affected if it became necessary to find thousands of professional magistrates, each of them beginning in a comparatively humble post, and all of them hoping that their service would attract the attention of the authorities and that they would advance higher. While the speaker emphasised the importance of the introduction of such new element, he expressly dissociated himself from the view that the purity of British justice would necessarily suffer. The importance of maintaining the real independence of the judiciary was also exhibited in the light of the position which might arise in cases where the Government were involved, and one might add, in this connection, that the maxim that justice should not only be done but should also appear to be done might, if the competitive element above envisaged were introduced, become by no means easy of fulfilment. The Home Secretary thought that fundamentally the defence which might be put up for the employment of a lay magistracy was that English law was at bottom a sensible thing which appealed to the sense of justice and fairness which the ordinary citizen of character and experience fully understood. The speaker said that all his life he had fought against the notion that the law was some highly technical mystery which the expert comprehended and which ordinary people repudiated as absurd. The best lawyers were the

people who took the most sensible view of human rights' The Lord Mayor of London, who opened the proceedings urged that criticism should be unprejudiced. Justices who were required to be free from bias were entitled to expect the same freedom from bias in their critics. It was suggested that much of the criticism directed against the courts of summary jurisdiction in the Press emanated from convicted persons, and that its growth in recent times was due to some extent to the fact that a large proportion of offenders were convicted of traffic offences and came from classes of society more articulate than those from which many past offenders were drawn.

Traffic Offences.

THE Minister of Transport sent a message in which he alluded to the penalties prescribed by the legislature by way of endorsement or suspension of licences in the cases of various traffic offences, and to difficulties associated with the problem of road safety if there was any uncertainty in the administration of the law. The generality of motorists were, he thought, law-abiding people who, far from being harried, should be facilitated. It was the minority of persons found guilty of offences who put individuals and the community as a whole to unmerited risk. It was as that minority was dealt with by the magistrates that the people would know what value the law attached to the preservation of life and limb on the roads. No domestic achievement, he urged, would win greater gratitude or bring greater relief to the community than the freeing of the roads from those who so far abused their convenience as to neglect the rights and weaknesses of others who had to use them. That task must be undertaken jointly by all who had the power to fulfil it. "Parliament," the message ran, "has laid down the law. The Ministry of Transport, the highway authorities and the police, but—finally and most impressively—yourselves, and the judicature, administer it. The obligation falls upon us all."

Imprisonment for Debt.

IN the course of an address on the Money Payments (Justices Procedure) Act, 1935, Mr. W. SHAW, clerk to the Manchester City Justices, gave figures illustrative of the extent to which the form of punishment which the Act is designed to render less frequent prevailed. In 1933, 11,000 people were imprisoned in default of paying fines, 6,000 for not paying sums due under wife maintenance and affiliation orders, and 3,000 for non-payment of rates. Prisons popularly supposed to be places provided for the punishment of criminals were, he intimated, in fact very largely used for the detention of persons who could not properly be classed as criminals. He stigmatised imprisonment for debt in many cases as a harsh and useless form of punishment and one, moreover, which seldom had a deterrent effect. The speaker suggested that when dealing with men and women of small means, where the offence was not serious and the only point for determination was the quantum of the fine, it should be a question not of making the punishment fit the crime but of making the fine fit the offender's means.

Police Court Social Services.

LORD FEVERSHAM delivered an address on the Report of the Departmental Committee on Social Services in Courts of Summary Jurisdiction. With regard to conciliation in matrimonial disputes he urged that the broken, unhappy home was a most fruitful breeding-ground for those forms of delinquency with which the social services of the courts were concerned. The continuation of conciliation in matrimonial disputes was, he said, much to be desired, for the welfare of the children might be enhanced if the family remained as a unit. Reference was also made to estimates of the increased cost which would have to be met if all the committee's recommendations were carried out. These would involve an additional expenditure of £80,000 a year on the probation service, while £25,000 would have to be provided during the first complete financial year. It would, the speaker said, be unreasonable to make the service dependent on any but public resources. The views of the Magistrates' Association on the matters dealt with by the Departmental Committee are set out in the annual report of the association and have been communicated to the Home Office in a resolution. The association supports the proposal that the Home Office should accept greater responsibility for the general administration, supervision and direction of the probation service, and agrees that responsible officials should keep in touch with all probation authorities and that the Home Secretary should be given a general power of inspection to satisfy himself that a reasonable standard of efficiency is being maintained, but it does not approve the suggestion that the London matrimonial cases should be dealt with at a few convenient centres, nor does it consider that no affiliation case should be taken at special sessions except by the consent of both parties.

The Inferior Courts and Matrimonial Cases.

MR. CLAUD MULLINS made some interesting suggestions with reference to the hearing of matrimonial cases by magistrates at the autumn conference of the Sussex branch of the National Association of Probation Officers, held at Haywards Heath, last Saturday week. He strongly criticised what he described as the "parade ground" procedure adopted in many courts, especially during the hearing of matrimonial cases and said that it was monstrous that private talks to the parties should be allowed to be reported by the Press as at present. He advocated that the rules which now apply to the divorce court should also be made to apply to the magistrates' courts during the hearing of matrimonial cases and intimated that, if this were done, magistrates could give their intimate talks to the parties in private. A further criticism is best set out in the learned magistrate's own words, as reported in *The Times*. "When I became a magistrate five years ago," he said, "it shocked me that marriage cases were grouped in lists with every kind of case conceivable. This meant that, at the end of a long afternoon's work, one would find oneself dealing with Mr. and Mrs. Jones, who were facing the most important problem of their lives. If justices have in their building a small overflow court there is nothing to prevent them from using it. The worst of justices is that they have such a respect for the law that they think a lot of things are illegal which are not really illegal at all. The arrangement of the court is entirely a matter for the control of court itself, and it is perfectly legal for the Bench to arrange the court as it thinks best." That everything should be done in the way of securing suitability of time and place in the interests of the parties themselves can hardly be doubted, nor, indeed can it be claimed that existing arrangements in these ways are always the best available. One more point may be mentioned. "It is another feature of English law," Mr. Mullins went on, "that nobody can speak the truth unless they are standing. But why people should only be able to tell the truth when they are on their feet is incomprehensible to me."

Juvenile Delinquency.

DR. J. C. W. METHVEN, Assistant Prison Commissioner, and formerly Governor of Borstal, in the course of his address at the same conference, dealt with the subject of juvenile crime—a matter to which we alluded in these columns a few weeks ago. The speaker did not believe there was any increase in juvenile delinquency. Among the population of sixteen and over dishonesty was considerably less common to-day that it was twenty-five years ago, but while there had been a steady decline in the number of offenders over sixteen years of age, there had been an increase in the numbers under sixteen in the last twenty-five years. That, however, it was urged, did not necessarily mean that there was an increased lawlessness among juveniles. The speaker attributed the apparent

increase to three outstanding factors: First, since the passing of the Children Act of 1933 there had been less reluctance to charge children in the courts; secondly, there had been an increased vigilance among the police; and, thirdly, tremendous strides had been made in recent years in the probation service. Dr. METHVEN referred to his investigation among adolescents, which showed him that many of these delinquents had no sort of moral training whatever. Unemployment—not, it was thought, itself really a cause of delinquency—brought about want in the home, and want in the home brought about some delinquency. The speaker urged that lack of playing fields was another factor, for proper playing fields would help to subliminate a good deal of the spirit of adventure which could not find an outlet in the streets.

Probation Officers.

AMONG the conclusions reached and recorded as a result of the conference was the importance of providing adequate training for probation officers, a resolution being passed by the delegates that they desired to impress upon the Police Court Mission the desirability of forming a small training school where men and women could be trained as candidates for the probation service. A further resolution emphasised that the religious spirit was an essential element in probation work. The delegates agreed in regard to the procedure adopted by children's courts that this should be primarily concerned with the true welfare of juvenile offenders, but they expressed themselves as concerned also to maintain the dignity of children's courts as courts of law. It was suggested, moreover, that magistrates appointed to juvenile courts should have experience of social work and young children's organisations. By the terms of another resolution the Home Secretary was requested to instruct the new probation division of the Home Office to publish regular annual reports as a means of combating ill-informed opinion on the subject of prevention and social work.

Preservation of Land by Covenants.

THE National Trust has decided to secure the promotion of a Bill in Parliament, one of the objects of which is to facilitate the work of the trust by securing the preservation of land by covenants. A resolution that the Bill be approved was carried unanimously at a recent meeting of members at Lincoln's Inn Old Hall. Explaining the provisions of the Bill, LORD ZETLAND, Secretary of State for India, who presided at the meeting and moved the aforesaid resolution, referred to the Town and Country Planning Act, 1932, as directing the attention of local authorities and landlords to the control of the user of land which was possible by means of restrictions imposed by covenants. The trust, he said, had recently realised that there were many cases in which they could achieve all that was necessary for the preservation of places of natural beauty, or the amenities of places of historic interest, by restrictive covenants designed to prevent unsightly or undesirable building or the shutting out of views. Preservation by covenant, it was intimated, was less expensive—often much less expensive—than preservation by purchase, but at present this could only be done where the trust actually owned land which would be materially affected. Provisions in the Bill would greatly simplify procedure and strengthen the hands of the trust in making voluntary arrangements of this kind between the trust and landowners. They had, the speaker said, a special interest in the preservation of natural beauty, and anything they could do in this way was designed to strengthen, or supplement in special areas, the work done by planning authorities over the country as a whole, or to come in where there was as yet no effective planning scheme. It was, and would be, done in close collaboration with planning authorities and the Ministry of Health, and, indeed, the clause in the Bill with which the speaker was then concerned had been drafted in consultation with the Ministry.

Road Safety.

THE Minister of Transport has taken a further step in the campaign against road accidents in preparing a written message which licensing authorities are being asked to issue to drivers of motor vehicles when licences are being renewed. Attention is directed to the fact that last year there were more than 6,300 fatal accidents on the roads, that motors were involved in 5,700 of them, and that as a result of them 6,500 people lost their lives. The driver is urged to be prepared for the mistakes of others, and the special needs of children and elderly persons are emphasised. It is pointed out that last year the roads witnessed the deaths of nearly 900 children under the age of eleven, and of nearly 1,500 people over sixty. Cyclists should be given plenty of room. Nearly 1,400 were killed on the roads last year, three-quarters of them in collision with motor-vehicles. The most dangerous times (from 5 p.m. to 6 p.m., and from 10 p.m. to 11 p.m.) and the most dangerous day (Saturday) are cited with the exhortation to be "cautious all the time," for, it is said, "most accidents occurred at times or places which are not themselves dangerous, on straight roads and in good light." The need for courtesy, as well as care, is emphasised with the observation that one inconsiderate driver can irritate hundreds of people in a day and by so doing add greatly to the dangers of the roads.

Recent Decisions.

IN *Hilton* v. *Billington and Newton Ltd.* (*The Times*, 24th October), the Court of Appeal reversed a decision of a county court and held on the facts of the case that the strain which a lorry driver has sustained as a result of having frequently, on a cold day, to restart his lorry by cranking, owing to the engine stopping by reason of a choked carburettor, had contributed to his death, in accordance with the ruling of the House of Lords, in *James* v. *Partridge Jones & Co.* (25 B.W.C.C. 92). Compensation amounting to £300 was awarded to the appellant, his widow, and leave to appeal to the House of Lords was refused.

IN *Rex* v. *McMahon* (*The Times*, 27th October), the Court of Criminal Appeal refused an application for leave to appeal against a conviction of the Central Criminal Court of unlawfully and wilfully producing near the person of the King a pistol, with intent to alarm His Majesty, contrary to s. 2 of the Treason Act, 1842.

IN *London, Midland and Scottish Railway* v. *Greaver and Another* (p. 878 of this issue), a Divisional Court reversed the decision of a metropolitan magistrate and held that bye-law 6 of the appellants' bye-laws and regulations, which was made under the provisions of the Railways Clauses Consolidation Act, 1845, the Railways Clauses Act, 1863, and the Railways Act, 1921, and prohibited dealing with tickets or partly used tickets by other than a duly authorised agent or servant of the company, though drawn in very wide terms, was not *ultra vires* and invalid as repugnant to the general law. The transfer at the end of a journey of the return half of an excursion ticket and the receiving of the same were accordingly offences, and it was ordered that the case should go back to the magistrate with the direction that the offences charged were proved.

IN *Re Hollingsworth; Public Trustee and Another* v. *Hollingsworth and Others* (*The Times*, 28th October), the court held that the gift by will of a sum of money upon trust to invest the same and distribute the income once in each year equally between the poor boxes of certain named metropolitan police courts was a valid charitable bequest and a scheme for carrying the same into effect was sanctioned accordingly.

Correction.—In connection with our note in this column last week on *Glamorgan County Council* v. *Ayton*, a report of which appears on p. 877 of this issue, it is desired to point out that, owing to an error, the word "disallowed" was printed as "allowed."

Lord Hanworth.

THE announcement of the death of Lord Hanworth, who, a year ago, resigned the Mastership of the Rolls on the ground of ill-health, has been received with universal sorrow. It had been hoped that release from the cares and strenuous labours of office would give him some years of leisured happiness; but it was not to be; and we can only now pay tribute to the work which he was enabled to accomplish, work into which he put his whole strength.

Belonging as he did to what has been called the "Mucian gens" of England, a race of hereditary lawyers, it was in accordance with the fitness of things that he should follow the family tradition in devoting his energies to the law. His grandfather, after filling the post of Attorney-General and becoming Chief Baron of the Court of Exchequer, was in many ways a remarkable man. He was twice married, and it is said had no fewer than twenty-five children—by two wives it is true—of whom twenty survived him; and even at the age of eighty-three he was described by Sir Fitzjames Stephen as a "fine lively old man, thin as thread-paper, straight as a ramrod, and full of indomitable vigour." As a judge we are told that he was animated more by the desire to do justice rather than embarking upon a discussion of minute technicalities, finding himself in the latter respect out of sympathy with that distinguished but somewhat narrow-minded lawyer, Baron Parke, who always seemed more concerned with "the state of the record" than with the merits of the litigation. In addition to having as his grandfather a Chief Baron, the late Lord Hanworth could count a goodly number of relations who attained distinction in the law. His uncle Charles was "the last of the Barons"; his father and an uncle were Masters; his cousin, still happily with us, Sir Frederick Pollock, is the author of a number of treatises which show that legal works may be written with a grace of language and clarity of treatment that some are inclined to consider attainable only in works of the imagination. With such a lineage, the facetious saying of the late Master of the Rolls that if he could not boast of being born in the purple he could at least claim to have been born in the law calf, had much point. As a junior at the Bar he was certainly hard-working, if not brilliant, giving full value for the fees marked on his briefs. In due time when he took silk and obtained a seat in the House of Commons promotion seemed to await him, and ere long it came by his appointment as Solicitor-General, and then as Attorney-General, but in neither office can it be said that he shone with any particular lustre, for hard-working though he was, it could not be alleged that he exhibited any brilliancy. There is indeed a story that the ineptitude of some of his remarks in a Committee of the House provoked a cutting comment from Mr. A. J. Balfour, who was nothing if not critical. But though it cannot be said that either in the House of Commons or at the Bar his career was marked by brilliancy, he continued hard-working, and probably he realised his professional ambitions when, on a vacancy occurring in the office of Master of the Rolls by the death of Lord Sterndale, he was appointed to fill the post, being afterwards created a peer. As Master of the Rolls, it has been said that he did not invest his court with the forensic glamour conferred upon it by a long line of brilliant predecessors; but, after all, it is not the primary function of the president of a court to do this; it is his duty to see that the proceedings are conducted in orderly fashion, and with the dignity that becomes a judicature, and then to give the leading decision in language, dignified if possible, but at all events so clear as to be unmistakable. If Lord Hanworth's diction seemed occasionally to be lacking in clarity and dignity it could at all events be asserted without fear of contradiction that he sought to do justice. During his later months on the bench an occasional irritability showed itself, but this was due only to the increasing physical weakness which was making itself manifest.

Apart from his purely judicial duties, Lord Hanworth gave himself unstintedly to the cause of the preservation of ancient records, a cause which specially appealed to him as Master of the Rolls, and his constructive work on the Business of the Courts Committee and the Law Revision Committee proved specially valuable in improving the machinery of the courts and in improving likewise the substance of the law, bringing it more into line with modern ideas. Furthermore, he enriched the literature of legal biography by his admirable sketch of his grandfather, the Chief Baron, for whose memory he had quite naturally a profound esteem.

Ministry of Health: Annual Report.

THE activities of the Ministry of Health for the year ended 31st March, 1936, are set out in the seventeenth Annual Report (Cmd. 5287, H.M. Stationery Office, price 5s. net). It is recalled that during that period the Minister was responsible for the introduction of four Bills, which received the Royal Assent—The Housing Act, 1935, the National Health Insurance and Contributory Pensions Act, 1935, the Unemployment Assistance (Temporary Provisions) (No. 2) Act, 1935, and the Unemployment Assistance (Temporary Provisions) Extension Act, 1936—that he was closely concerned with the Milk (Extension of Temporary Provisions) Act, 1935, and the Restriction of Ribbon Development Act, 1935, and that he was responsible for the introduction of the National Health Insurance Bill, the Old Age Pensions Bill, and the Widows', Orphans', and Old Age Contributory Pensions Bill, which received the Royal Assent on 17th July, and the Housing Bill, the Midwives Bill, and the Public Health Bill, which received the Royal Assent on the 31st of the same month. He was, moreover, responsible for the introduction of Bills which confirmed twenty-seven Provisional Orders dealing *inter alia* with water supply, joint hospital districts, and the alteration of local government boundaries, and received the Royal Assent during the period with which the report is concerned. Particulars are given concerning the heads of expenditure, amounting in the aggregate to nearly £160,000,000, involved in the services administered by the department, and of activities in connection with international health work, committees and other bodies, and appeals under the Old Age Pensions Acts, 1908–1924.

In the section of the report devoted to local government, four chapters, some sixty pages, are concerned with the subject of public health. In this connection it may be noted that the activity in the preparation and carrying out of rural water schemes, which had been stimulated by the Government grant of £1,000,000, under the Rural Water Supplies Act, 1934, and by the contributions from county and rural district councils, continued throughout the year under review, by the end of which £936,000 had been provisionally allocated in respect of schemes for 1,800 parishes of a total estimated capital cost of £5,750,000. Progress in housing is indicated with reference to what has been done in regard to (*a*) the clearance or other appropriate treatment within a prescribed period of unfit houses and the effective rehousing of those displaced, (*b*) the abatement of excessive overcrowding and the rehousing of the overcrowded families, and (*c*) the assurance of an adequate regular production of good and cheap houses to meet ordinary working-class demands outside the slum and overcrowded sphere. Of special interest is the section devoted to appeals to the High Court during the year, under s. 11 of the Housing Act, 1930.

The year under review is described as one of great progress in the preparation and making of planning schemes. The original intention under the Town and Country Planning Act, 1932, that the local authorities already planning or just beginning to plan, should adopt a draft scheme, or revise and re-adopt the draft already formulated within two years from the

coming into operation of the Act (i.e., before the end of last March) proved, it is intimated, too optimistic an estimate and the progress figures for 1934–35 were disappointing. But the lag has now been made good and the current review shows that more than half of England and Wales is now under planning. Among subjects dealt with in this part of the report, which may be mentioned, are the Restriction of Ribbon Development Act, and the revision of Ordnance Survey maps. The chapter devoted to public assistance shows that for the year under review, the average numbers in receipt of institutional and domiciliary poor relief were respectively 171,007 and 1,146,818, compared with 179,968 and 1,176,838 for the preceding year. The totals expressed as percentages of the population are 3.24 and 3.35, respectively. On the other hand the cost of outdoor relief has increased from £18,707,000 to £20,156,000, and the cost of indoor relief per head in Poor Law hospitals, general nstitutions and children's homes, has risen. A further chapter treats of a variety of local government subjects—alteration of boundaries, local Bills, borough charters, parking places among them—while the concluding chapter of this part of the report is concerned with local government finance. An interesting comparison is afforded by a table showing the expenditure and income from rates and Government grants of local authorities for 1933–4 and the preceding three years. Succeeding parts of the report are concerned with National Health Insurance and Contributory Pensions and the Welsh Board of Health, while forty-four appendices contribute to the wealth of information which the report provides.

The New County Court Rules.

By a merciful concession the Lord Chancellor has given the legal profession until 1st January, 1937, to study the County Court Rules, 1936 (S.R. & O. 1936, No. 626/L.17). On that date they are to come into operation, and are to revoke (Ord. L, r. 3) the County Court Rules, 1903, and all rules of subsequent date. So far as practicable they are even to apply to proceedings pending in a county court on 1st January, 1937 (Ord. L, r. 2).

Some of the changes in procedure have been rendered necessary by the passing of the County Courts Act, 1934, which is to come into operation on the same date as the new rules. At the same time the Rules Committee (appointed under s. 99 of the County Courts Act, 1934) has taken the opportunity of thoroughly overhauling and re-drafting, and, where necessary, altering the old rules. In what follows, the main changes are indicated in the order in which they occur and under the same headings as in the rules.

Where Proceedings may be commenced.

There will no longer be any need to obtain leave in order to sue in the court for the district in which the cause of action wholly or in part arose (Ord. II, r. 1 (1) (*b*)). All that will in future be necessary for the plaintiff to do in such a case will be to file a *præcipe* in the prescribed form, stating the facts on which he relies as giving the court jurisdiction (Ord. II, r. 1 (5)). The plaint will not be entered if the necessary facts are not shown. It will still be possible to commence proceedings in the court for the district in which the defendants or one of them resides or carries on business, but it will not in future be possible to commence either with or without leave in the court within the district of which the defendants or one of them dwelt or carried on business "at any time within six calendar months next before the time of commencement." That harsh provision of s. 74 of the County Courts Act, 1888, is repealed by the County Courts Act, 1934 (which repeals the whole of the 1888 Act), and is not reproduced anywhere in the new Act or rules.

Another welcome concession to defendants, particularly to the poorer classes, is that an action will not in future be capable of being brought in the court of the district in which the cause of action wholly or in part arose where it is founded on a contract for the sale or hire of goods and payment is to be made by instalments except where (*a*) more than £20 is claimed; and (*b*) where the defendant or someone whom he authorised (excluding a servant or agent of the plaintiff) made the contract in the district and was actually present when it was made (Ord. II, r. 1 (3)). A similar rule (Ord. II, r. 1 (4)) applies in all claims in contract against a domestic or outdoor servant or a person engaged in manual labour or the wife of any of these.

An assignee of a debt or other legal thing in action will be able to proceed in any court where the assignor could have sued but for the assignment, and not elsewhere (Ord. II, r. 1 (2)).

Proceedings for the recovery of land and proceedings under s. 7 of the Housing Act, 1936, are among new matters which may be begun in the court for the district in which the land was situate. It will be recalled that ejectment proceedings in the old form under s. 138 to 145 of the 1888 Act can no longer be brought in the county court (County Courts (Amendment) Act, 1934, s. 6), but can only be brought under s. 48 of the County Courts Act, 1934 (reproducing in part s. 59 of the County Courts Act, 1888).

Parties.

Order V, r. 9, contains an interesting amendment of the present Ord. III, r. 8, which deals with the case of a defendant who wishes to defend on behalf of others having the same interest. The present rule is that such a defendant has to give notice to the plaintiff of his intention to apply to the court for leave so to defend, and that such notice has to be given within two clear days of the date of the service of the summons. The defendant has to file an affidavit of the facts on which he relies, together with the names, addresses and occupations of the persons on whose behalf he seeks to defend. The new rule gives a defendant five clear days after the summons, and within that time he must file the affidavit and serve a copy of it on the plaintiff, so as to enable the plaintiff to appear and object at the application instead of, as hitherto, at the hearing of the action.

Commencement of proceedings.

The new Ord. VI, r. 2, divides actions into ordinary actions which may be brought in respect of any cause of action, and default actions, which, with certain exceptions, may be brought to recover any debt or liquidated demand. These exceptions are the same as under the present Ord. VII, r. 29B (2), with the addition that no default action shall be brought against an infant or person of unsound mind or by an assignee of a debt or other thing in action, or to recover money secured by a mortgage or charge. The present distinction between default and special default summonses does not exist under the new rules. Moreover, default summonses after 1st January, 1937, will be capable of being issued for sums less than £2.

Generally all matters which are "authorised to be commenced in a county court and not required by any Act or rule to be commenced otherwise" can be commenced by originating application. This new form of commencing proceedings must (*a*) be in writing, (*b*) state the order applied for, the grounds of the application, and the names and addresses of the proposed respondents or a statement that no person is to be served, and the applicant's address for service, (*c*) be filed in the court office with as many copies as there are respondents. The registrar delivers to the applicant the same form of plaint note as in an ordinary action. The registrar is also responsible for serving on the respondents a sealed copy of the application and a notice to attend. It is specially provided that applications under s. 113 (3) of the Settled Land Act, 1925, or under s. 203 of the Law of Property Act, 1925, shall be made by originating application.

Under the old rules, Ord. L, r. 5, covers such cases as are to be commenced in future by originating application. Where

statutory relief is claimed against anyone under the old rules, in the absence of a contrary indication, either in the statute or the rules, the proper form of proceedings is an action. For all other cases either a petition or the procedure for interlocutory applications is indicated in the old rules.

The new originating application will apply to cases where an action or default summons is inappropriate, i.e., where no relief is sought against anyone, and it is not sought to compel a person to do or to abstain from doing any act. It does not apply to cases where a petition is indicated and it does not apply to interlocutory applications (Ord. IV, r. 1). There is a large number of statutes under which the county court is given jurisdiction to determine various matters and no procedure is indicated. In many such cases the procedure by originating application is appropriate (e.g. Habitual Drunkards Act, 1879, s. 18; Married Women's Property Act, 1882, ss. 11 and 17; Municipal Election (Corrupt and Illegal Practices Act, 1884, s. 21; Solicitors Act, 1934, s. 60, etc.).

Special procedure is provided by Ord. VI, r. 6, for statutory appeals to the county court other than those from the registrar. It is sufficient here to note that except as otherwise provided in the Act governing the appeal the time for filing the copy of the order, decision or award appealed against is twenty-one days from the date of the order, decision or award appealed against. Statutes providing appeals to county courts frequently vary the procedure set out in the County Court Rules. For example, s. 22 of the Housing Act, 1930, and the 4th sched. pt. II, 1 (1), enact that an appeal under that section shall be by the entry of a plaint, and shall be known as an action.

The Committee seems to have recognised in formulating the rules that practitioners may in some cases experience difficulty in deciding whether it is correct to commence proceedings by originating application. Ord. VII, r. 7, accordingly provides that the judge can either amend the proceedings or order them to continue in their incorrect form if they are commenced either by action when the correct method is by originating application or *vice versa*.

Particulars of Claim.

The particulars required in actions for the recovery of land are similar to those required in ejectment proceedings under the old Ord. VI, r. 3, with the addition that the ground on which possession is required must be stated (Ord. VII, r. 3).

In a claim for principal money or interest secured by any mortgage or charge particulars must be given of (1) the amount of principal money lent, (2) the amount due and unpaid in respect of (*a*) principal, (*b*) interest, (*c*) proceedings previously taken against the defendant concerning the mortgaged property, and a statement whether he has obtained possession.

Similar particulars, with the necessary adaptations, are required where a mortgagee or chargee claims possession (Ord. VII, rr. 1 and 2).

The time within which a defendant may demand further particulars is materially shortened to "within eight days of the service of the summons on him, inclusive of the day of service" (Ord. VII, r. 9). Under the old Ord. VI, r. 7, a defendant had until "not later than five clear days before the return day." The plaintiff still has two clear days within which to deliver his particulars. Counter-claims are subject to a similar rule.

(*To be continued.*)

Mr. Ragau Martin, retired solicitor, of Tunbridge Wells, left estate of the gross value of £11,592, with net personalty £9,782. He left £100 to the National Trust "in grateful memory of many happy holidays spent in the English Lake District, North Wales (as far south as and including Cader Idris, and Scotland . . . towards the purchase of mountain tops or fells in either of such districts"; £100 to St. John's Church, Tunbridge Wells.

Company Law and Practice.

Fixed or Unit Trusts.—II.

In the last article the first two parts of the report of the Departmental Committee on Fixed Trusts were dealt with; this week I come to Part III, which is headed "Criticisms and Dangers of the Unit Trust Movement." As this is the part which really gives rise to the recommendations made, it is of the utmost importance—and it is probably fair to say that it is of considerable immediate importance, for, though the legislation which must follow will doubtless take some time to reach the statute book, it is no bad thing for the lawyer to familiarise himself with the dangers, even before the relative Act of Parliament is in force.

The criticisms in the report are set out in numbered paragraphs, and it will be convenient to adopt the same method here.

(i) *Propaganda and Advertisement.*

Several points are made under this heading; important as some of them are, they are somewhat detailed, and I will not weary the reader with them here.

(ii) *Dual Role of Managers.*

Here the old rule as to the conflict of interest and duty comes to the fore—as the report says, the managers "double the parts of a confidential agent of the unit-holders and of a principal who stands to gain or lose by his transactions with them."

(iii) *Method of fixing selling prices.*

This is really one particularisation of the immediately preceding criticism; it is not unnatural that the managers should seek to select a method of fixing selling prices which will prove the most advantageous to themselves.

(iv) *Buying back of units.*

It is suggested that the terms on which the managers undertake to buy back units ought to be precise and unambiguous—the particular danger being that in a rapidly falling market difficulties might arise where the terms are not clear.

(v) *Service charge out of capital.*

The usual practice is to load the original purchase price of a unit with (*inter alia*) a service charge to defray expenses of management during the existence of the trust; the result of this is, of course, that these expenses are being paid by the subscriber out of capital. This, it is suggested, is not satisfactory because—

(*a*) it increases the apparent income yield of the units;

(*b*) it pays a manager better when the life of the trust is shortened; and

(*c*) an improvident manager might spend the whole of the service charge in a few years and throw upon unit-holders further expenses to provide for management in the later years.

(vi) *Absence of responsibility of manager to the unit-holders and lack of control by unit-holders.*

This heading is self explanatory, and the report brings out the difference in this respect between the unit trust and a company, where the directors are liable to the shareholders for their actions. The extent of that liability and the circumstances in which it arises cannot be gone into in this article, but my readers will be fully aware that the directors of a company are liable for misfeasance.

(vii) *Excessive commission to brokers.*

The report states that the commission paid to stock-brokers and others on the sale of units is usually higher than the Stock Exchange scale on the sale of securities, which may provide an inducement to promote sales for reasons other than merit.

The criticisms set out above under the numbered heads (i) to (vii) are criticisms made from the point of view of the unit-holder, but it is obvious that a movement of this magnitude may be open to objection from the point of view of third parties or the general public. In an earlier, and particularly interesting, part of the report, the question is discussed from the national standpoint, the suggestion having been made that the movement tends to raise the rate of interest on Government borrowing. The committee evidently did not think that the taxpayer is being seriously injured in this way, but there are three criticisms of wider import than the purely parochial ones set out above. These are :—

(viii) *Market dangers of automatic buying and selling.*

An undue disturbance of market prices in securities underlying a trust is feared in certain events.

(ix) *Exercise of voting rights.*

Speaking generally, the votes which are carried by the underlying securities are in the hands of the managers. The managers have no beneficial interest in them, and the companies whose securities are so held may suffer as a result. There is the possible further danger that a popular company might find a very large number of votes controlled by an association of managers.

(x) *Taxation.*

Unit trusts escape some taxation which would fall into the country's coffers if the moneys invested in them were invested in the usual way.

After setting out these criticisms, the report goes on to say that they vary greatly in importance, and then goes on to set down certain general conclusions. These general conclusions may be summarised very briefly as follows :—

1. The unit trust movement should be controlled, but not prohibited.

2. There are dangers incident to it which cannot be eliminated by legislation : an observation which also applies to dealings in stocks and shares.

3. The setting up of an authority without whose licence unit trusts could not be formed or enlarged is inadvisable ; the existence of such a body might create a false sense of security. It is also impracticable ; the discretion to be vested in the licensing authority would have to be indefinite.

4. Even if all the committee's recommendations are adopted, they will not supply a complete safeguard against the possibility that managers may make illegitimate profits at the expense of investors.

Following on these general conclusions, the report proceeds to deal with the criticisms set out above in general terms, indicating whether they are suitable to be dealt with by legislation or not. Thus, as to (i), the report says that methods of propaganda and advertisement should be controlled by law ; as to (ii) and (iii), it says that security for the investor lies in competition for custom and in certain proposals made later for registration and publicity.

(iv), (v) and (vii) are not recommended for legislative action, but (vi) is, and is dealt with at considerable length later in the report.

(ix) and (x) are the subject of recommendations for legislation, but (viii) is looked on as a possible future risk against which immediate action is not proposed, though, as it is recommended that each trust should be bound to furnish annually to the Registrar a return of the underlying securities which it has bought, information will be available which will enable a careful watch to be made on this point.

The next part of the report (Part IV) contains the committee's recommendations, and next week I hope to give a summary of these. The present article and its immediate predecessor can only give a very bare idea of the earlier part of the report, which is, in addition to being a carefully prepared, well ordered, and thoroughly considered production, one of absorbing interest. My advice to all who have the time to spare is to read it ; even if time is too short to read the recommendations (which, after all, have still to be translated into a Bill, in which process they may suffer considerable change), get the report and read the first three parts—they will well repay the time spent.

(To be continued.)

A Conveyancer's Diary.

[Contributed.]

Hedges, Fences and Ditches.

Among the well-known " Forensic Fables " is the moral tale of the conveyancer who went for a Sunday walk in the country and explained the law concerning tender of amends to an indignant farmer on whose land he was trespassing. This tale should be constantly in the minds of those who concern themselves with the art of conveyancing. Most of us, I think, are liable to forget the crude physical realities that lie behind our documents. Moreover, the law concerning those realities is so elementary that most of our books tell us nothing about it. We may know a great deal about the Settled Land Act, 1925, and yet be very much at sea if we are asked what should be done if a river overflows its banks on to our client's property, or who should erect or repair a fence between two fields.

In this article I intend to set out some fundamental considerations relating to hedges, fences, trees and ditches. A great deal of learning upon these important subjects is to be found in three books to which I am indebted. First, there is " Gale on Easements," which has fairly lately been revised ; then there is " Theobald on the Law of Land," brought up to date to the end of 1928. Finally, there is " Hunt on Boundaries and Fences " ; unfortunately this work has not been revised, so far as I am aware, since 1912. I do not propose to give a full account of the authorities, which are voluminous and often ancient, as they are fully given in these three works, but shall content myself with stating some conclusions.

Suppose, now, that Black and White are respectively the owners of Blackacre and Whiteacre, two adjoining fields. The fence between is derelict. What is to be done about it ? We are not discussing who *owns* the fence, but for convenience let us assume that it is on Black's land. The governing considerations are the rules of common law, or, to be more precise, the rule in *Rylands* v. *Fletcher* and the law of trespass *quare clausum fregit*. If both fields are grass, there is no particular reason why anything should be done about the fence. Nor is there if they are both corn or roots or some other crop. All that is necessary is that there should be some way of marking the boundary so that neither Black nor White shall trespass and harvest the other's crop. A derelict fence is as good as any other form of mark for the boundary. But it is different if one of them is keeping animals that may stray and trespass, and in so doing damage the stock or crops of the neighbouring owner. Suppose White keeps cattle, but Blackacre is a hayfield. Then White in his own interest must fence his cattle in, or be liable at common law to Black. It makes no difference at common law that Black has had a fence on his side of the boundary and has let it fall into decay. Certain special considerations may intervene, which we shall discuss shortly, but this is the normal position. Actually, if Black is a wise man the solution will be different. He will reflect that it is silly to insist on a new fence being put up by White instead of their making a combined effort to repair his old one. Besides, he will remember that though White's new fence will be all right for some years, it will not last for ever, and that when it needs to be repaired there may be cattle in Blackacre and Whiteacre may be a hayfield. Then

the positions will be reversed, and if he has been unaccommodating in the past he will find he has to bear the whole cost of a new fence on his side of the boundary.

Conceivably, however, White may claim that Black is under a legal duty to put the fence in repair. Apparently it is believed that such a duty can subsist at law as a kind of easement. It is certainly a very strange sort of easement, if indeed it can now exist, for it is a positive one. The normal sort of easement is negative; it compels an owner to suffer someone else to do something on his land; it does not compel him to do anything himself and thereby incur expense. It seems, however, that there was a mediæval writ *de curia claudenda* for enforcing such a duty. On the other hand, the relatively modern authorities discussed in "Hunt" are very unconvincing, as the question whether or not such a duty can exist does not seem to have been directly fought out and decided in any of them. Moreover, as "Hunt" points out, it is not at all easy to see how evidence could be adduced to establish such a right. Such evidence would have to be evidence of user, that is to say, that the defendant has in fact maintained such a fence for a long time. But on what grounds could one show that such maintenance is to be referred to the discharge of the alleged duty, and not to that to which it is *prima facie* referable, i.e., to a desire to fence in his own stock? On the whole, one would be very chary of advising anyone to go to law nowadays to establish such an obscure right, and as a matter of practice one should be guided by the ordinary common law, save in highly exceptional circumstances.

Next, there are questions relating to the *ownership* of hedges, banks, fences and ditches. For this purpose we shall assume that between Blackacre and Whiteacre there lie a ditch and a bank, whether or not the latter is crowned by a fence or hedge. The ditch lies on the side nearest Whiteacre. To whom do the bank and ditch belong? This question is ultimately one of fact, and will be decided by evidence of acts of ownership. If White has openly clipped the hedge and used the sticks out of it for his own purposes, or has kept the ditch clear, that will be strong evidence that the hedge or ditch belongs to him. Or again, if there is a fence, and he has put creosote on it, or put in new boards and burned the old ones, it is evidence that the fence is his. Of course, if the evidence shows that the bank, hedge or fence is White's, the ditch, which is nearer Whiteacre than the hedge, bank, or fence is obviously his also. Or the evidence may show that the fence is Black's and the ditch White's. Or they may both have exercised dominion over the hedge and ditch; then they will be tenants in common. The evidence may prove any one of multifarious states of fact. But if there is no evidence, there is a legal presumption. This presumption is as follows: if a man goes out to dig a ditch, he will throw up a mound of earth. This mound is the bank, on which the hedge or fence stands. The law presumes that in throwing up the mound he committed no trespass. Therefore, it will presume that he threw it up on his own land. Therefore, since the bank is on the side nearest Blackacre, the presumption of law is that both bank and ditch are Black's. Put in the abstract, the presumption comes to this; both bank and ditch belong to the owner on the side furthest from the ditch. If there are ditches on both sides there is no presumption at all.

Here we come back to a familiar source of trouble, the new law of tenancy in common. Suppose that Black and White appear from the evidence, or lack of it, to be tenants in common of whatever is along their boundary. If that something is a fence only, there is no difficulty; it is a party "structure," and is vertically severed with cross-easements of support under L.P.A., s. 38 or Sched. I, Pt. V, para. 1. But if there is a hedge or a ditch or both the position is obscure. There is no definition of "structure" in the Act; the word, therefore, bears its ordinary meaning, which is conditioned by its derivation from the Latin "*struere*," to build. It would take a bold man to call a ditch a "structure"; indeed, it looks more like an open space, in which case one would get the fantastic result that it vested at the end of 1925 in the Public Trustee, and that the statutory trusts cannot be exercised without the leave of the court. This conclusion may sound absurd, but it is hardly more grotesque than the fact that the only land to which the provision in question has been held to apply in a reported case was a backyard in Bradford. Similarly, a hedge is hardly a "structure"; it is not something built, but something which is planted in the soil and grows. Therefore, it is held on the statutory trusts in the ordinary way. There is obviously a ludicrous anomaly in the L.P.A., which incidentally affects also boundary trees, which are held by the co-terminous owners in common in the absence of evidence as to who planted them. It could be put right by an amendment to the L.P.A., which would provide that in s. 38 and Pt. V of Sched. I, the word "structure" shall include trees, fences and ditches. Pending this beneficent change, it would be advisable for disputants and their advisers to be hesitant in advancing evidence tending to show that there is a tenancy in common of any form of boundary mark that is not clearly a "structure." This warning is the more necessary, as the point in question appears to have escaped the attention of the learned editors of recent editions of works dealing with the subject of boundaries.

Landlord and Tenant Notebook.

Effects of the Housing Acts—II. During the Tenancy.

VARIOUS provisions of the Housing Acts, 1925–1935, may modify, as pointed out in last week's "Notebook," the terms of a tenancy agreement. Last week's article dealt with those provisions which affect the position of parties at the commencement of the tenancy; I now turn to the rights and obligations conferred and imposed during the term, and to certain provisions which virtually import an unbargained forfeiture clause into some tenancies.

Repairs.—When dwelling-houses are let for habitation at a rental of not more than £26 a year outside, of not more than £40 within, the County of London, the landlord undertakes that they shall be in all respects fit for human habitation (Housing Act, 1925, s. 1). As a matter of history, the statutory obligation as to repairs when first introduced was limited to the condition of the premises at the commencement of the tenancy (Housing of the Working Classes Act, 1885), and the extension was brought about by the Housing and Town Planning Act, 1909.

I have pointed out that the standard demanded by the expression "in all respects fit for human habitation" is the subject of conflicting authority. What has been satisfactorily disposed of, however, is the important question whether landlords are made liable for disrepair (and responsible for consequences) of which they have no knowledge. This point was settled in their favour by *Morgan* v. *Liverpool Corporation* [1927] 2 K.B. 131, C.A., when it was laid down that the effect of the statute was that an ordinary covenant as to repairs was deemed to be a term of the tenancy. Consequently, there is no liability till notice is given to the covenantor. According to a tentative *obiter dictum*, such notice must emanate from the tenant; but this qualification seems to be at variance with the governing principle, which is forcibly illustrated by the exception to the rule in favour of tenants whose landlords live on the premises affected (*Melles* v. *Holmes* [1918] 2 K.B. 100), or regularly inspect the part which suffers decay: *Murphy* v. *Hurly* [1922] 1 A.C. 369.

Other provisions contained in these statutes are in the nature of saving clauses. Thus, when local authorities enforce by-laws and issue notices and make orders relating to the

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repair of houses used, intended for the use of, or of a type suitable for the use of the working classes, such notices and orders may be directed to the "owner," or person receiving the rack-rent. The meaning of "working-classes" was discussed in last week's "Notebook"; the "owner," by reference in one case to the Public Health Acts, means whoever receives not less than two-thirds of the full annual net value. But both his rights and obligations are expressly saved; breaches of covenant committed by tenants and lessees are not excused (1925 Act, s. 31, as amended by the 1930 Act), nor are remedies available to a tenant against his landlord, either at common law or otherwise (the words "or otherwise" clearly allude to the position when the obligation is statutory), prejudiced (1930 Act, s. 18 (7)). When the landlord is liable, there is provision for recovering the cost of work done by the local authority themselves from tenants by weekly instalments, which the tenants may then deduct from rent (1930 Act, s. 18 (5)).

Ancillary to the above are provisions conferring rights of entry *in invitum*. A landlord under statutory liability to repair may enter for the purpose of inspection on giving twenty-four hours' notice (1925 Act, s. 1 (2)). No express right of entry for the purpose of actually effecting repairs is given; but neither is this necessary, the right being implied: see *Saner* v. *Bilton* (1878), 7 Ch. D. 815. But whenever premises on land used as a site for working-class dwellings are, or are likely to become, dangerous or injurious to health or unfit for human habitation, anyone interested whose interests are threatened may apply to the High Court for an order permitting him to enter and remedy the trouble (1925 Act, s. 30). When a notice has been served ordering repairs, or a clearance or demolition order made, a similar order can be obtained from a court of summary jurisdiction (1925 Act, s. 29 (2), as amended by the 1930 Act).

Overcrowding.—A landlord commits the offence of causing or permitting overcrowding, described in last week's "Notebook," if, after receipt of a warning notice, he fails "to take such steps as it is reasonably open to him to take" to secure abatement "including, if necessary, legal proceedings for possession" (1935 Act, s. 3 (5) (*a*)). This applies to dwelling-houses used by a type suitable, etc., for the working-classes. These, of course, are let mostly on weekly tenancies, containing neither covenants against alienation nor provisos for re-entry, and probably, in most cases, when it is established that a tenant has, by taking in a lodger or lodgers, overfilled the house, the remedy will be the seemingly drastic one of notice to quit. Conditional notices to quit are ineffective as notices to quit, but might meet the requirements of steps to secure abatement, in apt circumstances. But those who wish to give a *locus pœnitentiæ* would do well to consult *May* v. *Borup* [1915] 1 K.B. 830, from which it will be seen that an intention to "cancel" a notice to quit does not invalidate the notice for, while a notice cannot be unilaterally cancelled, this time the contradiction is in the immaterial part of the document.

Summary determination and recovery of possession.—Landlords and tenants of property likely to be within the purview of the Housing Acts should be aware of several provisions for summary determination of tenancies. There is a right, when premises are on a site or part of a site for working-class houses, and are or are likely to become dangerous or injurious to health, to apply for determination of a lease and any derivative underlease subject to conditions, including payment of compensation, which appear just (1925 Act, s. 30 (1)). Similar application may be made by an applicant entrusted with the carrying out of an approved improvement or reconstruction scheme, provision again being made for "just" compensation (*ibid.*, s. 53 (1)). In connection with clearance and demolition orders, either party to a house affected may apply to the county court for an order to determine or to vary the tenancy, the court being directed to have regard to contractual rights and "other circumstances" (1930 Act, s. 40, amended by the 1935 Act, s. 87).

Regard should also be had to the exclusion of property from the protection of the Rent etc. Acts (1930 Act, s. 59, as amended by the 1935 Act), when a clearance order or demolition order has been made, or whenever required to enable a local authority to carry out its powers under any of the Acts.

A novel provision is included in the "overcrowding" legislation. Local authorities are empowered, after abortive notice to the occupier, but without consulting the reversioners, to apply for an order for vacant possession of an overcrowded dwelling, the procedure being that of the Small Tenements Recovery Act, 1838. On the execution of the warrant, possession is given to the landlord, from whom the costs of the proceedings are recoverable (1935 Act, s. 10 (2)). Determination of a tenancy at the instance of a third party is something new to the law, and may possibly be seized upon as a precedent by those reformers who advocate compulsory divorce; but it seems fair to say that something like an analogy can be drawn between the new provision and those which entitle local authorities to repair at the expense of the landlord, though in this case the remedy is rather more radical. I may say that the statute does not, in terms, provide that the relationship of landlord and tenant is determined by this proceeding, and there is nothing to prevent the resumption of possession by the tenant accompanied by such number of persons as the law permits. But failing such resumption, it is difficult to imagine a court, even in the absence of notice to quit, giving judgment for rent in respect of a period subsequent to execution of the warrant.

Our County Court Letter.

TITLE TO SITE OF WAR MEMORIAL.

In a recent case at Leicester County Court (*Newbold Verdon Parish Council* v. *Beck*) the claim was for possession of the site of the village war memorial; a declaration that the hedge on the southern side was the plaintiffs' property; an injunction against the defendant's continuing in occupation of the land on the eastern side of the memorial; £5 damages. The plaintiffs' case was that the land in dispute was conveyed to them on the 5th April, 1924, by The Rev. Hugh Legge. Old inhabitants gave evidence, identifying the property with that in title deeds going back to 1876. The defendant's case was that the deeds of 1876 described the property as 8 perches, whereas the deed of gift referred to 200 square yards. The defendant's evidence was that he was aged seventy-four, and had lived most of his life in the village. When the land was given to the plaintiffs, as a site for the memorial, nothing was said about the boundaries going beyond an iron fence on the eastern side. Having bought his adjoining property in 1930, he was entitled to a hedge on the southern side and 4 feet of land on the eastern side. Corroborative evidence was given by two old inhabitants. His Honour Judge Galbraith, K.C., gave judgment for the plaintiffs, with costs.

NOTICE OF INCREASE OF RENT.

In *Keen* v. *Williams*, recently heard at Trowbridge County Court, an application was made for an order to amend a notice of increase of rent, under the Rent, etc., Restrictions Act, 1923, s. 6 (1). The applicant's case was that a notice of increase was served in 1935, but a miscalculation had been made in the amount of rates. The figures were stated at £4 8s. 4½d. a quarter instead of £4 7s. 5½d., i.e., a difference of 11d. or less than 1d. a week. A landlord, on giving notice of increase, was bound to give the tenant the benefit of any relief allowed by way of discount on payment of rates. The applicant had not done this, on serving the first notice, and the notice was

therefore invalid until amended. His Honour Judge Kirkhouse Jenkins granted the application, with costs on Scale A, in view of the expense incurred by reason of the lengthy correspondence over a matter of a few pence. See *Strood Estates Ltd.* v. *Gregory* (1936), 80 Sol. J. 465, with reference to calculations involving a compounding allowance for rates.

THE RIGHTS AND LIABILITIES OF DAIRYMEN.

In a recent case at Sheffield County Court (*Lowe* v. *Brightside and Carbrook Co-operative Society*) the claim was for damages for wrongful dismissal. The plaintiff's case was that, after ten years' service, he was receiving £3 a week as a roundsman, delivering bottled milk. While in bed with influenza he was given a wage packet, containing his pay for three days he had worked, and was told he would be dismissed for past remissness. The defendants' case was that they employed fifty-three men, and, owing to the leakage, a "form system" had been introduced. Thereafter the plaintiff's account was practically straight, whereas in the previous five weeks he had had a leakage of over seventy gallons, including fourteen in one week. The plaintiff was therefore either dishonest or consistently negligent, and his summary dismissal was justified. His Honour Judge Frankland remarked that the plaintiff had had every opportunity, in the witness box, of giving some explanation. None was forthcoming, and, obviously, no competent workman could suffer that shortage, if he had done his work properly. Judgment was given for the defendants, with costs. It transpired that two other cases depended upon the decision.

Obituary.

LORD HANWORTH.

Viscount Hanworth, who resigned the office of Master of the Rolls last year, died at Hythe, Kent, on Thursday, 22nd October, at the age of seventy-four. Ernest Murray Pollock was educated at Charterhouse and Trinity College, Cambridge, and was called to the Bar by the Inner Temple in 1885. He took silk in 1905, and became a Bencher of his Inn in 1914 and Treasurer this year. He was elected Conservative Member of Parliament for Warwick and Leamington in 1910. From 1911 to 1919 he was Recorder of Kingston-on-Thames. In 1919 he became Solicitor-General, and in 1922 he was appointed Attorney-General. He resigned that office after a few months, and the following year was appointed Master of the Rolls. He was chairman of the Business of the Courts Committee appointed in 1932, and of the Law Revision Committee appointed in 1934. He was raised to the Peerage as Baron Hanworth in 1926. An appreciation appears at p. 864 of this issue.

Mr. W. M. JELLETT, K.C.

Mr. William Morgan Jellett, K.C., the "father" of the Irish Bar, died in Dublin, on Tuesday, 27th October, at the age of seventy-eight. He was educated at Armagh Royal School and Trinity College, Dublin, and was called to the Irish Bar in 1882. He took silk in 1899. He was Unionist Member of Parliament for Dublin University from 1919 to 1922.

Mr. A. ADDISON.

Mr. Arthur Addison, solicitor, a partner in the firm of Messrs. Wells & Hind, of Nottingham, died at Nottingham, on Tuesday, 27th October. Mr. Addison was admitted a solicitor in 1887.

Mr. C. G. FIELD.

Mr. Charles Gyningham Field, solicitor, of Reading, senior partner in the firm of Messrs. C. G. & G. S. Field, an Honorary Freeman and Alderman of the Borough of Reading, died on Thursday, 22nd October, at the age of eighty-six. Mr. Field was admitted a solicitor in 1872. He became a member of the Town Council in 1884, was elected an alderman in 1902, and was Mayor of Reading in 1893, 1912 and 1913. He was made a Freeman of the borough in 1934. He was a Governor of Reading University, and was for twenty-seven years Deputy Coroner for the Eastern Division of Berkshire.

Mr. W. A. FRITH.

Mr. William Alfred Frith, solicitor, of Watford, died at Watford, on Friday, 23rd October, in his sixty-second year. Mr. Frith was admitted a solicitor in 1898.

Mr. E. LATTER.

Mr. Edward Latter, solicitor, senior partner in the firm of Messrs. Latter & Willett, of Bromley, died on Sunday, 25th October, at the age of eighty-one. Mr. Latter was admitted a solicitor in 1879.

Mr. C. F. LAMPARD.

Mr. Charles Frank Lampard, solicitor, of Essex Street, Strand, W.C., died recently at Colchester, at the age of fifty-seven. Mr. Lampard was admitted a solicitor in 1902.

Mr. J. PEDDER.

Mr. John Pedder, solicitor, a partner in the firm of Messrs. Weightman, Pedder & Co., of Liverpool, died on Saturday, 17th October, at the age of seventy-eight. Mr. Pedder was admitted a solicitor in 1881.

Reviews.

The Duties of a Lord Chancellor. Being the Presidential Address of The Right Honourable Viscount Hailsham, LL.D., Lord Chancellor, to the Holdsworth Club of the Students of the Faculty of Law in the University of Birmingham, delivered at the Annual Dinner of the Club on 12th June, 1936. Royal 8vo. pp. 23. Birmingham: The Holdsworth Club of the University of Birmingham. London: Sweet & Maxwell, Ltd. Price 1s. 6d.

On 30th June last we made a brief reference in these columns to Lord Hailsham's presidential address to the Holdsworth Club at Birmingham, on the duties of his high office, and we then expressed the hope that in due course the full text might be made generally accessible. This hope has now, we are glad to see, been realised, and the address has been issued in the like tasteful format as were the earlier addresses by Lord Atkin and Lord Macmillan. It will probably be a revelation even to many lawyers to discover the extraordinarily multifarious and heterogeneous functions—judicial, political and administrative—that fall to be performed by the Lord Chancellor. As he reminded his audience, his judicial work does not consist in

> "Sitting in his court all day,
> Giving agreeable girls away"

but is really at times not only exhaustive but exhausting, and one may well wonder how he finds the time and has the energy to dispose of it as expeditiously and efficiently as he does. To read this brochure should dispel the too-prevalent notion that the Lord Chancellor is merely an ornamental official drawing a handsome salary with no serious duties to perform in return.

Books Received.

Tax Cases. Vol. XX. Part II. 1936. London: H.M. Stationery Office. 1s. net.

Outlines of Local Government of the United Kingdom (and the Irish Free State). By John J. Clarke, M.A., F.S.S., of Gray's Inn and the Northern Circuit, Barrister-at-Law. Twelfth Edition, 1936. Crown 8vo. pp. x and (with Index) 350. London: Sir Isaac Pitman & Sons, Ltd. 5s. net.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, are responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Internal Trading and Derating.

Q. 3381. Can a manufacturer who enjoys the reduction of rates under the Derating Act trade internally with his own employees? This question arises, apparently, out of the fact that a particular manufacturing company enjoying the advantages of the Derating Act supplies to employees for the personal use of such employees things which they did not themselves manufacture, such goods being supplied, apparently, at "trade terms."

A. As there is no sale to members of the public, the premises do not become a shop, and still retain their character of industrial hereditaments. There is, therefore, no breach of the conditions under which de-rating was obtained, and the practice is permissible.

Statutory Trusts under A. of E. Act, 1925—Maintenance and Advancement.

Q. 3382. A died intestate, a widower, leaving two young children; the total estate is under £500. The administrators are the mother and brother of the deceased. Under the Administration of Estates Act and the Trustee Act, have the administrators the statutory power of maintenance, and also the right to advance to each child one-half of the capital of each share towards the maintenance, education and benefit of such child? The administrators do not receive any orphan's pension, and subsequently the small amount of income is not sufficient to maintain them. If the statutory powers apply it is assumed that the administrators would not necessarily have to incur the expense of an application to the county court? If such an application is made, is it entirely in the discretion of the judge to authorise the payment out to the administrators of any capital for the children's maintenance, etc.?

A. Yes. The powers of maintenance and advancement are expressly given by s. 47 (1) (ii) of A. of E. Act, 1925. Although the sub-section only says statutory power of advancement, it is considered the intention is to include the provision for advancement *or benefit* contained in s. 32 of T.A., 1935. The power to apply for advancement does not, but according to the decision of Warrington, J., *In re Churchill, Hiscock and Lodder* [1909] 2 Ch. 431, a decision on a power in a will—a power to apply for the benefit of an infant—does authorise maintenance. The opinion is given therefore that up to one-half of the prospective share of such infant may be utilised for that infant's maintenance, and that there is no need to apply to the county court, unless the administrators differ. The court is reluctant to authorise the application of capital for maintenance, but does so where the income of the fund is clearly insufficient, and there is no person liable and able to maintain.

Cost of Street Widening.

Q. 3383. A builder had property abutting on a road which the local authority has scheduled for widening under a town planning scheme. Under what circumstances can the local authority take land for road widening purposes without making compensation therefor, and if they can do so without paying compensation, can they make the frontagers contribute towards the cost of such work?

A. The Town and Country Planning Act, 1932, s. 27, enables a local authority to make provision in a scheme for the widening of any road, and for charging the cost upon the owners of adjoining land. The section contains safeguards against the placing of excessive burdens on the frontager. The power is only intended to be exercised in the case of roads which would eventually be widened by the owners themselves, and which would therefore be a source of benefit to the owners. There is an appeal to the High Court, under the above Act, 1st Sched., Pt. II. Subject to the foregoing, the second question is answered in the affirmative.

Will—Death—Probate—Deeds of Deceased's House in the Name of Another but in His Custody—Position.

Q. 3384. A, residing with his brother, B, dies. In his safe are found the title deeds to the brother's house, the purchase money having been provided by A. The conveyance is in B's name. The deeds are handed by *the executors of A* to B. Had not they a lien on the deeds for the purchase price of £450, and should not this have been taken into account with other pecuniary bequests to B? There is no mention in the will as to this. B always paid A rent for the property.

A. It would certainly appear that either B was a trustee of the house for A (and his personal representatives) or that A had (and his personal representatives have) an equitable charge thereon by way of deposit for the sum of £450 with possible interest in equity. The facts should certainly be explored. It seems probable (though it is not possible to speak with certainty without knowing the nature of the provisions of the will), that (if there was a loan of £450) an adjustment should have taken place. In dealing with this query we have no actual information upon the circumstances which accompanied the deposit of the deeds in A's safe, but presumably they can only have been deposited there for safe keeping, by way of charge by deposit, or possibly because A, being B's beneficiary, if the latter was a trustee, desired to hold them.

Will—Construction—Meaning of "in the event of the decease."

Q. 3385. A testator by his will, after appointing A.E.H. executor and directing payment of his debts, funeral and testamentary expenses "gave and bequeathed unto E.D.H. for her whole and sole use and benefit absolutely and for ever, all of his estate and effects, both real and personal, whatsoever and wheresoever in the event of the decease of the said E.D.H., the whole of the estate and effects both real and personal to be equally divided between the two sons of the said E.D.H., viz.: A.E.H. and F.G.H." Testator died and the will was proved in 1923. The vendors' solicitors feel a doubt whether the absolute gift of the real and personal estate to E.D.H. was reduced by the subsequent clause to an estate for her life with remainder to her sons. The testator probably intended the sons to take an interest only if their mother predeceased him, but he has not definitely stated this.

A. We do not think that the absolute gift to E.D.H. is cut down to a life interest by the subsequent clause in the will. Death is not a contingency, but the common lot of humanity. The expression "in the event" would appear to suppose that the event might or might not happen, whereas the death of E.D.H. will certainly happen. One is thus forced to the conclusion that the event or contingency indicated by the testator was the death of E.D.H. in his lifetime.

To-day and Yesterday.

LEGAL CALENDAR.

26 OCTOBER.—A great banking scandal reached its climax on the 26th October, 1855, when William Strahan, Sir John Dean Paul and William Bates, partners in a great banking house established for more than two centuries, stood in the dock at the Old Bailey charged with having illegally converted to their own use certain securities entrusted to them. The bankruptcy of the house had revealed liabilities of more than half a million pounds and the state of its affairs had been shown to be such that many persons were involved in actual ruin, while immense numbers suffered more or less severely from the losses.

27 OCTOBER.—All the prisoners were convicted and on the 27th October Mr. Baron Alderson in passing sentence said: "I do very, very much regret that it falls to my lot to pass any sentence on persons in your situation; but yet the public interests and public justice require it, and it is not for me to shrink from the discharge of any duty however painful which properly belongs to my office. . . . I have seen at least one of you under very different circumstances sitting by my side in high office . . . and I could scarcely then have fancied to myself that it would ever come to me to pass sentence on you . . ." All were condemned to fourteen years' transportation.

28 OCTOBER.—On the 28th October, 1874, Trooper Thomas Smith, of the 20th Hussars, was tried at the Old Bailey for the murder of Captain Bird, his superior officer. The captain had been shot dead during musketry practice at Aldershot and his assailant's motive was supposed to have been revenge for a minor punishment inflicted on him, for while under arrest he had said: "He won't give any more seven days' drills and it will be an example to some of the rest of them." The defence was accident, but the man was convicted, and Lush, J., was much affected in passing sentence of death. The prisoner was unmoved.

29 OCTOBER.—On the 29th October, 1759, Captain Lawrence, master of the "Pluto" privateer, and two of his seamen were tried at the Old Bailey for robbing a Dutch vessel on the high seas. They had boarded her with their faces blackened and demanded first two guineas and then four more. Eventually they had confined the master and the crew and taken £700 worth of goods from the ship. They were convicted and sentenced to death. Lawrence was hanged as a pirate at Execution Dock, but the seamen, as having acted under his orders, were respited.

30 OCTOBER.—This sort of charge seems to have been fairly common in those days, for a couple of years later, we read that on the 30th October, 1761, at the Old Bailey, "Capt. Wm. Watson of the 'Fly' privateer was by the villany of two of his sailors indicted for piratically boarding and robbing a Dutch ship of several things of value, but it being proved that the captain, so far from encouraging his men to commit any act of piracy, ordered them to carry back the things laid in the indictment . . . he was honourably acquitted."

31 OCTOBER.—On the 31st October, 1659, John Bradshaw, who presided at the trial of Charles I, "died of a quantum ague which had held him for a year." We are told that "he declared a little before he left the world that if the King were to be tried and condemned again, he would be the first man that would do it." He was described as "a strict man and learned in his profession; no friend of monarchy." Like many of the Commonwealth republicans, he was a member of Gray's Inn, and he appears to have been well read in history and law.

1 NOVEMBER.—On the 1st November, 1777, John Scott became Attorney-General of Ireland. He was afterwards Chief Justice of the King's Bench.

THE WEEK'S PERSONALITY.

When John Scott, "Copper-faced Jack," entered the legal and political life of Ireland, his bronzed features and unblushing effrontery earned him a nick-name which stuck to him throughout his life. He launched himself as a very active member of the popular party—so active that the powers above found it worth while to throw the bait of office which he swallowed with the cynical remark to Lord Townshend: "My lord, you have spoiled a good patriot." In the following year he obtained his silk gown and soon afterwards he was installed in the profitable place of counsel to the revenue board. Well he earned his promotion. In Parliament, night after night, the patriots, led by the great orator Henry Flood, violently and pertinaciously attacked the administration, and Scott used all his courage and versatility in withstanding them. He became Solicitor General and then Attorney-General in 1777. Shortly after this promotion, he said to Flood: "I suppose you will be abusing me this session as usual?" "When I began to abuse you," replied his opponent, "you were a briefless barrister; by abuse, I made you counsel to the revenue; by abuse I got you a silk gown; by abuse I made you Solicitor-General; by abuse I made you Attorney-General; by abuse I may make you Chief Justice. No, Scott, I'll praise you." But he did become Chief Justice and Earl of Clonmell too.

FARMING JURISTS.

Mr. Norman Birkett, K.C., has just bought a farm in Westmorland, and henceforth we may expect to see him in vacation emulating another agricultural jurist who was said to combine "milking a cow with one hand and annotating 'Lindley on Partnership' with the other." Certainly, if he can show farmers how to keep out of the net of that "new despotism," the various busy-body marketing boards, the venture will not have been vain. It is to be hoped that he will have better luck than Lord Erskine, when, after losing the Chancellorship, he invested in an estate in Sussex. The land would produce nothing but stunted birch trees and was found to be irreclaimable. To mitigate his losses he had to set up a manufactory of brooms. Sheep also he took an interest in, and at one time was mighty proud of a flock of Southdowns. A friend to whom he showed them observed: "I see your lordship has still an eye on the Woolsack." It was only too true; poor Erskine never ceased to regret that shadow of fourteen months with the Great Seal for which he bartered the solid enjoyment of the finest practice at the Bar.

WIG AND ROBE IN JAFFA.

"Arabs Glimpse Dignity of British Justice," was the headline with which one of our more picturesque dailies adorned a photograph of the judge in wig and robes reopening the court at Jaffa, after the recent "troubles." The Arabs in the picture look on inscrutably (as the journalists would say) at the majestic spectacle. What was the impression left on their minds? One recalls a story in the recently published memoirs of a colonial governor. At the unveiling of a war memorial in a primitive place he was present in full uniform, with the judge standing at his right hand in his long robe and full-bottomed wig. In the middle of the ceremony a rather short-sighted old negro lady was plainly heard to say to an old crony who was with her: "Yes, dat's our Gubnor, an' dat's his good lady wid de long hair standing by him." It seems that one must come to England to find whole-hearted reverence for the venerable head-covering which Lord Chancellor Campbell once so far forgot himself as to call "a grotesque ornament fit only for an African chief."

Notes of Cases.

Court of Appeal.

Bendir and Others *v.* Anson.

Lord Wright, M.R., Romer, L.J., and Macnaghten, J.
19th October, 1936.

PRACTICE—ACTION FOR INTERFERENCE WITH LIGHT—BUILDING ERECTED BY DEFENDANT—ALLEGED DAMAGE TO HOUSES OPPOSITE—WHETHER RESPECTIVE OWNERS ENTITLED TO JOIN IN ONE ACTION—R.S.C., Ord. XVI, r. 1.

Appeal from a decision of Farwell, J. (80 SOL. J. 612).

The defendant erected a building in Old Burlington Street. Two of the plaintiffs were the owners or occupiers of No. 6 and the other two were the owners or occupiers of No. 4, houses on the other side of the street which did not adjoin each other. They alleged that the new building obstructed light to which they were entitled, and they brought an action in respect of the interference. Farwell, J., held that the alleged injury to each of the two houses was not the same transaction so as to entitle the plaintiffs to join in the same action and ordered that either the writ must be set aside or two of the plaintiffs must elect to proceed, the other two being struck out. The plaintiffs appealed.

LORD WRIGHT, M.R., in giving judgment, said that the learned judge had not only proceeded on the construction of Ord. XVI, r. 1, but also took into account the fact that the defendant might be embarrassed by the joinder. The wording of the rule was not well chosen. The words "transaction or series of transactions" was not a term of art and there was no exact definition of its meaning in the authorities. A "transaction" meant an act extending beyond the agent to other persons. For instance, in this case, the erection of the building was an action limited in one sense to the builder and the area covered, but the effects also extended to other premises in respect of which a nuisance might be caused by the building. In that sense the building was a transaction. Further, his lordship doubted whether in this case "any common question of law or fact" arose. The law as to what constituted interference with light and air was well established and his lordship could not see how any question could arise on that point in this case. As to the facts, the position of each building might be different from that of the other building. It was not necessary, however, to express a decided opinion whether or not this case thus came within the rule, but in the exercise of the discretion vested in it, the court could make an order on the footing that the joinder of two plaintiffs in one action would produce a condition of things likely to embarrass the trial of the action before a judge. The appeal should be dismissed, but the order of the judge should be varied. The order should stand in so far as it required the plaintiffs to elect which of them should proceed in this action, and upon such election being made the writ and statement of claim should be amended by striking out the parts not referring to the remaining plaintiffs. The other plaintiffs should be at liberty to issue a new writ claiming the relief appropriate to their premises, and the two cases should come on for trial before the same judge on the same day, and he should deal with them as he saw fit. The plaintiffs issuing the new writ should stand in the same position as if it had been issued at the date of the original writ. His lordship added that the court did not accept the view that the alleged injury to No. 4 was not in respect of the same transaction as No. 6.

ROMER, L.J., and MACNAGHTEN, J., agreed.

COUNSEL: *Andrew Clark*, for the appellants; *Thomas Cunliffe*, for the respondent.

SOLICITORS: *Steadman, Van Praagh & Gaylor; Nicholson, Freeland & Shepherd.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Appeals from County Courts.

Conway *v.* New Ideal Homesteads Ltd.

Lord Wright, M.R., Romer, L.J., and Macnaghten, J.
13th October, 1936.

COUNTY COURT—CLAIM NOT EXCEEDING £20—LEAVE TO APPEAL REFUSED BY COUNTY COURT JUDGE COURT OF APPEAL'S JURISDICTION—COUNTY COURTS ACT, 1888 (51 & 52 Vict. c. 43), s. 120.

Appeal from Dartford County Court.

The purchaser of a freehold house on a building estate developed by the defendants brought an action against them for £1 5s. 4d. damages for breach of contract. The plaintiff alleged that he had been obliged to pay the sum in question in respect of certain road expenses, which, he said, the defendants had warranted that they would bear. This was in the nature of a test action. The learned county court judge gave judgment for the plaintiff and refused the defendants leave to appeal, but the Court of Appeal subsequently gave them leave on condition that they paid the costs in any event, the plaintiff having failed to appear on the hearing of the motion.

Lord WRIGHT, M.R., now ordered the appeal to be struck out and said that when the matter came before the Court of Appeal previously, the court's attention was not drawn to s. 120 of the County Courts Act, 1888, which provided that there should be no appeal in any action of contract when the damage claimed did not exceed £20, unless the judge granted leave. That meant the county court judge (see s. 186). His lordship also referred to s. 124 and said that s. 126 did not apply to an appeal. Here the provisions entitling the defendants to appeal had not been complied with, and the judge's refusal of leave was final. His lordship referred to *Argent* v. *Baker*, unreported (see Yearly County Court Practice, 1936, p. 140); *Fell* v. *Lancashire & Yorkshire Railway Co.*, 96 L.T. 785; and *Bruce* v. *James* [1898] 1 Q.B. 417, and said that the respondents were entitled to an order striking out the appeal, and to their costs. In future it would be better for a respondent when a notice of motion was served on him to apply to strike out the appeal before further costs were incurred.

ROMER, L.J., and MACNAGHTEN, J., agreed.

COUNSEL: *R. T. Sharpe; W. L. James* and *L. F. Sturge.*

SOLICITORS: *F. B. Brook*, agent for *J. L. Conway*, of Erith; *Cartwright, Cunningham, Hasellgrove & Co.*

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Gwilym *v.* Aberbeeg Collieries Ltd.

Slesser and Scott, L.JJ., and Eve, J.
20th October, 1936.

WORKMEN'S COMPENSATION—SILICOSIS CONTRACTED BY COLLIER—CERTIFIED BY MEDICAL BOARD—NOT TOTALLY DISABLED SO AS TO BE ENTITLED TO CERTIFICATE OF INCAPACITY—CONDITION DETERIORATED—CASE RECONSIDERED—CERTIFICATE THAT HE WAS TOTALLY DISABLED—NOTICE OF ACCIDENT AFTER PRESCRIBED PERIOD—REASONABLE CAUSE FOR DELAY.

Appeal from Tredegar and Abertillery County Court.

In December, 1931, a collier was properly certified as suffering from silicosis but, as he was not totally disabled, he was not entitled to a certificate of incapacity. In 1932 the doctor, who was attending him at first, thought the incapacity partial, but, later in the year, reached the conclusion that he was totally disabled by silicosis. He knew that the certifying board had refused to certify total disablement and, although he disagreed with that view, he continued till August, 1934, to give the workman certificates under the National Health Insurance Act, that he was suffering from silicosis. In August, 1934, he thought that the board should reconsider the case, and, on the 8th April, 1935, the man was

re-examined by them. On the 23rd April they certified him as totally disabled by silicosis since the 24th October, 1933. On the 25th April (a date beyond the prescribed period of six months after the happening of the accident) notice of the accident was given on behalf of the workman and a claim for compensation was made. The learned county court judge held that there was reasonable cause for the workman's failure to give notice of the accident within the prescribed period.

SLESSER, L.J., dismissing the employers' appeal, said that the Various Industries (Silicosis) Scheme, 1928, applied. By cl. 4, the right to compensation was limited to cases where the certifying surgeon (replaced by the medical board by the Scheme of 1931) certified in pursuance of the Scheme that the workman was totally disabled from silicosis. These employers contended that the man failed within six months from the 24th October, 1933, to make a claim for compensation. On the face of it he could not make a claim because any formulated claim would have to rely on a certificate and by the time, when the six months elapsed, he had not yet received one. It might be necessary in some cases to decide whether that circumstance would, in itself, constitute reasonable cause for not making the claim within the prescribed time, but here it was not necessary to consider *Kitchen* v. *C. Kosh and Co.* [1931] A.C. 753, or to discuss the view that where a workman had proper reason to suppose that he might have a claim, then if he did not submit himself for examination, it might be held that there was not reasonable cause for delay. But here it was possible to assume what was implicit in *Holt* v. *Andrew Hobon & Sons*, 23 B.W.C.C. 242, and *Moore* v. *Naval Colliery Ltd.* [1911] 1 K.B. 28. His lordship assumed that there might be cases where the notional accident in the certificate was more than six months before the time when the workman made his claim, it might be said that he had acted unreasonably in not advancing his claim sooner. But the evidence here showed that the workman acted reasonably. His own doctor did not think, until August, 1934, that he had sufficient case properly to bring before the medical board, and he was entitled to rely on the advice of his doctor.

COUNSEL: *W. Shakespeare* and *Godfrey Parsons; Cave*, K.C., and *A. A. Warren.*

SOLICITORS: *Furniss, Stephen & Co.*, agents for *A. J. Prosser*, of Cardiff; *Smith, Rundell, Dods & Bockett*, agents for *T. S. Edwards & Son*, of Newport, Mon.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Hill *v.* Ladyshore Coal Co. Ltd.

Slesser and Scott, L.JJ., and Eve, J.
20th and 21st October, 1936.

WORKMEN'S COMPENSATION—COMPENSATION FOR INJURY—WEEKLY PAYMENTS—NOTICE TO TERMINATE—COPY OF MEDICAL CERTIFICATE—INCOMPLETE—NULLITY OF SUBSEQUENT PROCEEDINGS—WORKMEN'S COMPENSATION ACT, 1925 (15 & 16 Geo. 5, c. 84), s. 12.

Appeal from Bolton County Court.

Following an injury at work, a collier's big toe was amputated. Compensation was first paid as for total incapacity and later reduced to 6s. a week for partial incapacity. Subsequently, under s. 12 of the Workmen's Compensation Act, 1925, his employers gave him notice of termination of the payments, enclosing what purported to be a copy of their medical adviser's certificate as to his condition. It read as follows: "Townleys Hospital, Farnworth, 22nd November, 1935. I examined on 21.11.35 Edward Wilmot Hill, aged 51, of 56, Bispham Avenue, Breightmet, Bolton. I am unable to find any reason for the pain of which he complains. The stump of the toe now appears firmly healed in a satisfactory manner. No clinical evidence of arthritis in the remaining joint of the toe. It is possible that he may have pain in the toe, but I can find no reason to account for his symptoms." The copy, however, omitted the words: "I would suggest that he be tried at his previous occupation of a collier." It also omitted various matters headed: "Past Accidents," "History of Present Accidents," "Present Complaints," "Present Condition," and "Opinions," in which reference was made to the heel, the toe and the stump and all the matters relevant as grounds for the opinion were set out. The workman was unaware of the omissions and sent the employers a certificate by his own doctor disagreeing with that submitted by the employers, to the effect that he was suffering from after-effects of the amputation and was only able to follow light employment. The medical referee, when the matter came before him, certified that the man had fully recovered and was fit to resume his ordinary work, but soon afterwards the amputation scar broke and became ulcerated and the man became unfit for any work. The workman having applied for compensation in respect of his renewed disability, the learned county court judge held that the medical referee's certificate was conclusive only as to the man's condition at the date of the certificate, and that the court might consider the question of the recurrence of the disability. He awarded compensation as for total incapacity, finding that the renewed disability resulted from the original accident. No objection was taken to the incomplete copy of the certificate of the medical adviser of the employers, but on their appeal it was objected on behalf of the workman that the incompleteness was a failure to comply with s. 12 (3) of the Act, making the whole of the subsequent proceedings a nullity.

SLESSER, L.J., in giving judgment, referred to s. 12 of the Act, and said that the counter-certificate sent by the workman was, in accordance with the proviso to s. 12, one disagreeing with the employers' certificate. In order to decide whether to agree or disagree it was essential that he should have before him the actual certificate. If he was given an extract or a commentary or a paraphrase, he was not in a position, as contemplated by the section, properly to consider whether he would agree or disagree. There might be cases where the disparity was so trivial (as in the case of a clerical slip) that the matter was one of no moment, but here the differences were substantial. The suggestion that the man should "be tried at his previous occupation of a collier" was a matter of grave moment germane to the question which had to be considered. An abbreviated certificate which contained none of the grounds and not even all of the opinion could not be said to be a copy of the certificate "setting out the grounds of the opinion of the medical practitioner." Therefore, the proceedings for the termination of the weekly payments were all invalid. It appeared that the referee did not have before him any matter other than the incomplete certificate, and even if he did, it made no difference, because before the referee took jurisdiction of the matter, the workman was entitled to know what the employers' doctor had certified about him. His lordship referred to *Burgoyne* v. *Rose Bridge Colliery Co., Ltd.* [1936] 2 K.B. 1, and said that as the workman here was not informed of the case set out in the certificate of the employers' doctor, no true consent to refer the matter to the referee arose at all. However, it had been argued that as the accuracy of the certificate had not been impugned till now, and the judge gave judgment on the basis that it was valid, the court could not now consider what the respondent urged. That was contrary to principle. Where the court was without jurisdiction, neither the acquiescence nor the express consent of the parties could confer jurisdiction: see "Halsbury's Laws of England," 2nd ed., vol. 8, p. 532. No consent or acquiescence could make this invalid certificate valid, so that in respect of the appellants' arguments suggesting that the judge was wrong, had he been dealing with a valid certificate, in thinking that it was not final and conclusive of the whole matter then and for the future, it was not necessary to express a concluded opinion. The appeal failed.

SCOTT, L.J., and EVE, J., agreed.

COUNSEL: *Cave*, K.C., and *Nield*, for the appellants; *E. Dale*, for the respondent.

SOLICITORS: *Peace & Darlington*, of Liverpool; *Fielding and Fernihough*, of Bolton.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Havard *v.* Amalgamated Anthracite Collieries, Ltd.

Slesser and Scott, L.JJ., and Eve, J.
21st and 22nd October, 1936.

WORKMEN'S COMPENSATION—INJURY TO COLLIERY WORKER BY FIRING OF A CHARGE—STATEMENT AFTER INJURY.

Appeal from Neath County Court (80 SOL. J. 401).

A workman who had been permanently injured by the explosion of a charge at a colliery, claimed compensation under the Workmen's Compensation Act. He contended that he was injured while fetching his shovel from the coal face. His employers contended that the accident occurred while he was connecting the cable to the charge and that he had no business to do so. There was evidence that immediately after the accident he had said in answer to questions that that was what occurred. The learned county court judge dismissed the application.

SLESSER, L.J., dismissing the applicant's appeal, said that had the matter of the workman's alleged statement been simply that it had been made immediately after he had suffered a terrible accident, it would have had to have been weighed with the greatest care (see *Hesford* v. *Manchester Collieries Ltd.*, 28 B.W.C.L. 137, at p. 141). But there was evidence that the statement had been repeated after he came out of hospital and at a time when he was fully conscious. His lordship considered the evidence and said that the appeal must be dismissed.

COUNSEL: *Cave*, K.C., and *T. J. Jones*; *Gerwyn Thomas* and *J. H. K. Thomas*.

SOLICITORS: *J. T. Lewis & Woods*, agents for *Randell, Saunders & Randell*, of Swansea; *Kenneth Brown, Baker, Baker*, agents for *Gee & Edwards*, of Swansea.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

Jervis *v.* Howle and Talke Colliery Co. Ltd.

Clauson, J. 15th October, 1936.

MINES AND MINERALS—MINING LEASE—ROYALTY RESERVED—ACTION FOR RECTIFICATION—TERMS FOR USE OF SHAFT—MEMORANDUM—"FREE OF TAX"—INTENTION OF PARTIES—INCOME TAX ACT, 1918 (8 & 9 Geo. 5, c. 40)—All Schedules Rules, r. 23.

The defendant Howle, having obtained a lease of certain minerals, desired to make arrangements for the use of a certain shaft and the land around it belonging to the plaintiff for the purpose of gaining access to them. The terms arrived at after discussion were that the royalty for the use of the shaft should be 3d. a ton of coal sold, free of tax. On the 25th October, 1931, the arrangement was embodied in a document whereby the plaintiff agreed to the defendant's use of the shaft and land "in consideration of receiving from him threepence per ton of coal sold. This agreement to be legalised, George Howle to pay costs of such agreement. Free of tax." (The defendant Howle had the document typed and the plaintiff inserted the words "Free of tax.") A draft lease was prepared, and, after certain questions had been disposed of, it was altered to provide for the royalty and engrossed, the engrossment being sent to the plaintiff. After the discussion of further questions, the engrossments, dated the 3rd June, 1932, were exchanged. Clause 4 provided: "The lessee . . . shall pay for every acre of the demised premises . . . the yearly rent of £5 together with a royalty of threepence per ton on all coal sold by the lessee, such royalty to be paid free of tax on the 25th day of March and the 29th day of September in every year . . ." Clause 5 provided: "All the said rents and save as aforesaid to be paid without any deduction, except for landlord's property tax." In May, 1933, the defendant Howle assigned the lease and his interest in the minerals to the defendant company, of which he was managing director. For three years the royalties were paid as they fell due without deduction, and during that time the defendants did not pay the income tax. Thereafter the Commissioners of Inland Revenue claimed it and it was paid. In March, 1935, the company deducted from the royalty payment the income tax on it and also on the royalties paid in the three previous years. They claimed to be entitled to do so because by r. 23 of the General Rules applicable to Scheds. A, B, C, D and E of the Income Tax Act, 1918, it was provided with regard to deductions of tax authorised by the Act that "every agreement for payment of interest, rent or other annual payment in full without allowing any such deductions shall be void." In this action the plaintiff claimed rectification of the lease by omitting the words "of threepence" and "free of tax" from cl. 4 and inserting a provision for payment "of such an amount as after deduction of income tax at the standard rate from time to time shall leave the sum of threepence" per ton. He also claimed repayment of the sums previously deducted by the company.

CLAUSON, J., in giving judgment, said that it was clear from the evidence that what the parties meant by the terms they came to was that the plaintiff should get 3d. on every ton of coal sold and should not have to bear any tax on it. The defendant's solicitor in the witness box had said that nothing had been further from his mind than that the General Rules under the Income Tax Acts would have a certain operation on the validity of the agreement. The defendant's counsel had admitted that there was no right to deduct from the payment in March, 1935, the income tax on the royalties paid during the previous three years, but had contended that they were entitled to deduct the income tax on that and future payments. But there was "strong irrefragable evidence" (see *Shelburne* v. *Inchiquin*, 1 Bro. C.C. 338, at p. 341) that when the parties executed the lease they thought its effect would be what it would be if it were rectified as the plaintiff asked. Rectification should be directed. His lordship considered *Burroughes* v. *Abbott* [1922] 1 Ch. 86, at p. 95, and said that he was bound to follow it. The amounts deducted by the defendants from the payment in March, 1935, must be returned.

COUNSEL: *Herbert Hart*; *Heckscher*.

SOLICITORS: *Waterhouse & Co.*, agents for *Sherratt, Nelson & Mason*, of Kidsgrove; *Maude & Tunnicliffe*, agents for *Frederick Griffiths*, of Kidsgrove.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Chabot *v.* Davies and Another.

Crossman, J. 22nd October, 1936.

COPYRIGHT—PLAN AND ELEVATION FOR SHOP FRONT—SENT BY DESIGNER TO SHOPKEEPER—NO ORDER TO DESIGNER—SUBSEQUENTLY USED BY SHOPKEEPER—COPYRIGHT ACT, 1911 (1 & 2 Geo. 5, c. 46), ss. 1, 2, 22, 35.

The plaintiff, a designer and fitter of shop fronts, in August, 1935, sent to the first defendant, a shopkeeper, at his request a plan and elevation for a new shop-front for premises he was about to open together with an estimate amounting to £325 and a detailed specification. No order was given to him, but, in October, he found that a shop front had been erected at the premises by a firm employed by the shopkeeper. In an action for damages for infringement of copyright, it was proved that the firm had worked on a tracing of the plan and elevation supplied by the plaintiff, the shopkeeper having handed it to one of their employees.

CROSSMAN, J., in giving judgment, referred to the Copyright Act, 1911, ss. 1, 2 and 35, and said that the plan was an "original literary work" within the Act (see *University of London Press Ltd.* v. *University Tutorial Press Ltd.* [1916] 2 Ch. 601, at p. 608). The question arose whether it was taken out of the Act by s. 22, and the Designs Rules, 1932, made under the Patents and Designs Act, 1907, s. 86. For that purpose it would be necessary to find (1) that it was capable of being registered and (2) that it was "used or intended to be used as models or patterns to be multiplied by any industrial process." This plan was not within the latter words and, therefore, it was not necessary to consider whether it was capable of being registered under the Patents and Designs Act. His lordship considered *Hanfstaengl* v. *Empire Palace* [1894] 2 Ch. 1, and *Bradbury, Agnew & Co.* v. *Day*, 32 T.L.R. 349, and said that the plan and elevation of the shop front was a production or reproduction of the plaintiff's plan and therefore the shopkeeper by authorising it had infringed the plaintiff's copyright. *Burke* v. *Spicers Dress Designs* [1936] 1 Ch. 400, did not decide that reproduction could not be an infringement, but that a particular reproduction was not. The words "produce or reproduce" were capable of including a case like the present. There had been an infringement for which the plaintiff was entitled to damages. These should not exceed reasonable remuneration for his work. His lordship did not limit himself to the precise amount of commission under the scale of the Royal Institute of British Architects, under which the remuneration would work out at about £52. On the evidence 100 guineas was fair remuneration.

COUNSEL: *Collins*, K.C., and *Lloyd-Jacob*; *Macgillivray*.

SOLICITORS: *Braby & Waller*; *Thorp, Saunders & Thorp*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

R. *v.* Governor of Brixton Prison.

Swift, Branson and MacKinnon, JJ.
13th August, 1936.

CRIMINAL LAW—EXTRADITION—FUGITIVE OFFENDER FROM CANADA ARRESTED IN UNITED KINGDOM—WARRANT ISSUED IN CANADA—ENDORSEMENT IN ENGLAND BY MAGISTRATE ONLY—VALIDITY—COMMITTAL—PRESUMPTION OF GUILT—MAGISTRATE'S DECISION—RIGHT OF DIVISIONAL COURT TO REVIEW—FUGITIVE OFFENDERS ACT, 1881 (44 & 45 Vict. c. 69). ss. 3, 5.

Rule *nisi* for *habeas corpus*.

In 1932, warrants were issued in Canada for the arrest of one, Bidwell, on charges of obtaining securities by false pretences and larceny. The accused could not, however, be found there. In May, 1936, he was arrested in England, and taken before a metropolitan magistrate at Bow Street to be dealt with under the Fugitive Offenders Act, 1881. After hearing evidence, the magistrate committed Bidwell to prison to await his return to Canada. At the instance of Bidwell a rule *nisi* for *habeas corpus*, directed to the Governor of Brixton Prison, was obtained on the grounds: (i) that the order of committal was decided on without hearing a statement which Bidwell desired to make; (ii) that the warrant issued in Canada for his arrest was not in England endorsed by a Secretary of State, as required by s. 3 of the Fugitive Offenders Act, 1881; and (iii) that the evidence did not disclose a strong or probable presumption that Bidwell was guilty of the offences charged as required by s. 5 of the Act. By s. 3 of the Act, a warrant for the arrest of a fugitive offender issued in one of His Majesty's dominions is a valid authority for the arrest of the fugitive if endorsed by "any of the following authorities in another part of [His] Majesty's dominions in or on the way to which the fugitive is or is suspected to be (that is to say): (1) A judge of a superior court in such part; and (2) In the United Kingdom a Secretary of State and one of the magistrates of the metropolitan police court at Bow Street; and (3) In a British possession the governor of that possession." Bidwell alleged in an affidavit that the magistrate had decided to commit him without giving him an opportunity to make a statement which he wished to make on his own behalf. By an affidavit filed in reply, the chief clerk at Bow Street denied that allegation, and stated that it was the invariable practice at that court for the magistrate alone to endorse warrants under the Act of 1881.

SWIFT, J., said that it had become clear that the applicant's allegation that the magistrate had announced his intention to commit him for return to Canada before he was given an opportunity to make a statement on his own behalf was without foundation in fact. He had made an extremely long statement, the whole of which had been taken down in the presence of the magistrate. In order to justify the second ground of application, counsel had been forced to contend that, in the United Kingdom, a Secretary of State and a magistrate of the metropolitan police court were neither of them an authority of themselves, but that the two had to be combined in order to make an authority within the meaning of s. 3. He (his lordship) did not agree with that contention. In his opinion, the section gave a list of the authorities, any of whom might endorse the warrant: a judge in any part in which the accused might be, or might be going to, in the United Kingdom a Secretary of State and one of the magistrates of Bow Street Police Court, and in a British possession the governor of the possession. A magistrate was as much an authority for the purposes of the section as a judge or a governor of a possession or a Secretary of State in the United Kingdom. That contention therefore failed. With regard to the third ground, s. 5 of the Act meant that there must be such evidence that, if it remained uncontradicted at the trial, a reasonable-minded jury could convict upon it. If it was contradicted at the trial and the jury believed the contradiction, then, of course, they would not convict. The magistrate was not trying the case but only determining whether there was such a case against the accused that he ought to be sent to take his trial before a jury or some other tribunal in the place where the allegations were made against him. Whether or not there was in any particular case a strong or probable presumption that the accused was guilty must be a question for the magistrate. It had already been sought in the past to argue in that court that it was for that court to decide whether or not there was such a strong or probable presumption. In *R.* v. *Vyner* (1903), 68 J.P. 142, Lord Alverstone, C.J., and Kennedy, J., had expressly left open the question whether the court had power to try whether there was or was not a strong presumption that the accused had committed the offence charged. He (his lordship) also wished to leave the question open, although he agreed with Lord Alverstone's opinion that the court had the power. It was unnecessary to decide the point here, because he (his lordship) was of opinion that there was a very grave case for Bidwell to answer. The rule must be discharged.

BRANSON and MACKINNON, JJ., agreed.

COUNSEL: *Eustace Fulton*, showing cause; *P. M. Wright*, in support.

SOLICITORS: *Director of Public Prosecutions*; *The Official Solicitor*.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Barbanell *v.* Naylor.

Lord Hewart, C.J., du Parcq and Goddard, JJ.
13th October, 1936.

VAGRANCY—ARTICLE IN NEWSPAPER—PURPORTED FORETELLING OF FUTURE BY ASTROLOGY—ADVICE TO ALL PERSONS BORN ON A CERTAIN DAY OF THE YEAR—WHETHER AN OFFENCE—VAGRANCY ACT, 1824 (5 Geo. IV, c. 83), s. 4.

Appeal by case stated from a decision of an alderman of the City of London.

The respondent wrote an article called "What the Stars Foretell," which was published in a Sunday newspaper. The article purported to foretell the future by means of astrology. Certain passages in the article gave advice to all persons born on a certain day in the year. Certain advice with regard to the investing of money was, for example, given for those born on the 10th February. It was contended for the appellant that that was as much fortune-telling as if a separate letter giving that information had been written to each of all the persons born on the 10th February. Upon an allegation against the respondent that his article constituted the offence of professing to tell fortunes, contrary to s. 4 of the Vagrancy Act, 1824, the alderman held that the statements in the article were too vague in character to constitute the offence alleged, and that there was no telling of the fortune of any one person sufficient to infringe the section.

LORD HEWART, C.J., said that he agreed with the view taken by the alderman that statements addressed generally to all readers of articles and to those born on a particular day did not amount to professing to tell the fortune of any individual. He (his lordship) saw no reason to justify the court in holding that the alderman's decision was wrong, and the appeal must be dismissed.

COUNSEL: *Beyfus*, K.C., and *Harold Simmons*, for the appellant; *Christmas Humphreys*, for the respondent.

SOLICITORS: *Henderson & Simmons*; *Lloyd & Armstrong*.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Glamorgan County Council *v.* Ayton.

Lord Hewart, C.J., Branson and du Parcq, JJ.
20th October, 1936.

LOCAL GOVERNMENT—COUNTY COUNCIL—MEETINGS OF—SUBSISTENCE EXPENSES INCURRED BY MEMBERS WHILE ATTENDING—PAYMENT OF BY COUNCIL—WHETHER AUTHORISED—LOCAL GOVERNMENT ACT, 1933 (23 & 24 Geo. 5, c. 51), s. 294.

Appeal by the Glamorgan County Council by case stated by the Minister of Health under s. 229 (3) of the Local Government Act, 1933, from a decision of the respondent, a district auditor.

The following facts were proved or admitted: The respondent, the district auditor, in February, 1936, issued a certificate of disallowance. The finance committee of the appellant council had resolved to recommend, *inter alia*, that, in addition to the travelling expenses, previously allowed, subsistence expenses necessarily incurred by their members should be paid by the council in accordance with a specified scale. Certain charges, totalling £11 18s., were subsequently made by fifty-eight members of the council in accordance with that scale in respect of subsistence expenses, and were paid by the council. The respondent having, as directed by the Minister of Health under s. 236 of the Local Government Act, 1933, held an extraordinary audit of the council's accounts, disallowed the items amounting to £11 18s. His decision was directed to the issue whether or not the council might, under s. 294 (1) of the Act of 1933, legally pay their members, when attending meetings of the council or its committees, the cost of meals while away from home in addition to the cost of means of transport to and from their homes. The respondent disallowed the items on the ground that there was no authority, express or implied, in the section enabling the council to expend their funds for the purpose of subsistence payments. The question for the court was whether, among the expenses permitted by s. 294 of the Local Government Act, 1933, to be defrayed by a county council, were included expenses incurred by members for the purposes of bodily subsistence required by them by reason of absence from home for the purpose of attending meetings.

LORD HEWART, C.J., said that the words of the section meant exactly what they said, namely, expenses necessarily incurred in travelling to and from the meetings of the council and its committees. If it had been intended to include any allowance for subsistence, it would have been easy for the Legislature to say so in precise words. That had been done in other Acts to which counsel had referred, and, indeed, had also been done in s. 267 of the Act of 1933, which dealt with expenses incurred in attending certain conferences. It was to be observed that in the resolution of the finance committee it was recommended that subsistence expenses should be paid in addition to travelling expenses, thus recognising the distinction between travelling and subsistence. He could not think that, as the appellants had urged, when Parliament said "in travelling," they meant "in and in the course of travelling." The appeal must be dismissed.

BRANSON and DU PARCQ, JJ., agreed.

COUNSEL: *Micklethwait*, K.C., *A. W. Cockburn* and *L. K. A. Block*, for the appellants; *Turner*, K.C., and *Erskine Simes*, for the respondent; *Stable*, K.C., and *Leslie Davy*, for the Public Economy Association of South Wales and Monmouthshire and for certain ratepayers of Glamorganshire.

SOLICITORS: *Torr & Co.*, agents for *D. J. Parry*, Cardiff; *Sharpe, Pritchard & Co.*, agents for *T. D. Windsor Williams*, Neath; *Willis & Willis*, agents for *Gilling & Goodfellow*, Cardiff.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

Dolby *v.* Halmshaw.

Lord Hewart, C.J., Branson and du Parcq, JJ.
21st October, 1936.

REVENUE—GAME LICENCE—HARE KILLED BY TWO GREYHOUNDS IN A FIELD—ONLY OWNER OF DOGS PRESENT—WHETHER LICENCE REQUIRED—"COURSING"—MEANING OF—GAME LICENCES ACT, 1860 (23 & 24 Vict. c. 90), ss. 4, 5.

Appeal, by case stated, from a decision of justices for the Parts of Lindsey.

An information was preferred under the Game Licences Act, 1860, charging the respondent, Halmshaw, with having killed certain game—namely, a hare—he not being then in possession of a licence to kill game. At the hearing of the information, the following facts were proved or admitted: The respondent was the owner of three greyhounds, which he kept for coursing and sport. He was in the habit of coursing them only at informal meetings with his friends. In November, 1935, he was, with permission, in a field belonging to one, Davey, and had two of his greyhounds with him. No other persons or dogs were present. The two greyhounds chased a hare and killed it. Thereupon the respondent went to where the dogs were, picked up the hare, put it in a bag, and placed the bag in the bottom of a hedge. He had not taken out a licence to kill game. By s. 4 of the Act of 1860, no one is allowed to kill game without first obtaining a licence. Section 5 contains various exceptions from the provisions of the Act, including "(3) the pursuing and killing of hares respectively by coursing, with greyhounds, or by hunting with beagles or other hounds." It was contended for the appellant, a revenue officer, that the facts did not constitute coursing; that the exception in s. 5 only applied to organised coursing meetings; that, in coursing, the comparative trial of dogs and not the catching of the hare pursued was the main object; that it was not the object of the exception to permit the killing of game, but to permit without a licence coursing, which meant the matching of dogs. It was contended for the respondent that coursing meant any hunting of hares with greyhounds, and that it was the sport of hunting with greyhounds by sight. The justices dismissed the information.

LORD HEWART, C.J., said that the appeal must be dismissed. Attention had been called to the Irish case of *R.* v. *Clarke* [1930] N.I. 174. There the defendant had, it was said,

coursed a hare with a single greyhound, and the Chief Justice had said that the word "coursing" referred to the well-known sport of coursing. It was difficult to reconcile that statement with s. 5 of the Act, or to see why the third exception in the section should be restricted to a well-known sport. Brown, J., had said, in that case, at p. 181, that the words referred to coursing in an organised way. But where was that to be found in this exception? If that had been intended, nothing would have been easier for Parliament than to say so. The magistrates were justified in coming to the conclusion to which they had come.

BRANSON and DU PARCQ, JJ., agreed.

COUNSEL: *T. N. Winning*, for the appellant; *W. T. Monckton*, K.C., and *C. L. Henderson*, for the respondent.

SOLICITORS: *Taylor, Jelf & Co.*, agents for *Eric W. Scorer*, Lincoln; *Ellis & Ellis*, agents for *W. Bains*, Brigg.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

London Midland & Scottish Rly. Co. *v.* **Greaver and Another.**

Lord Hewart, C.J., Swift and du Parcq, JJ.
27th October, 1936.

RAILWAYS — NON-TRANSFERABLE TICKET — BY-LAW FORBIDDING SALE, PURCHASE AND TRANSFER BETWEEN MEMBERS OF PUBLIC—VALIDITY.

Appeal, by case stated, from a decision of a metropolitan magistrate.

Informations were preferred by the appellant company, under by-law 6 of the company's by-laws and regulations, against the respondents, charging the respondent Greaver with having on the 16th February, 1936, at Euston Station unlawfully received a partly-used ticket from the second respondent Keohane with intent to use it for the purpose of travelling on the railway, contrary to the by-law. Keohane was charged with having at the same time and place unlawfully transferred a partly-used ticket to the first respondent with intent that he should use the ticket for the purpose of travelling on the railway, contrary to the by-law. The following facts were proved or admitted: On the 16th February, 1936, Keohane travelled from Manchester to Euston on a non-transferable return excursion ticket for which he had paid 10s., the ordinary single fare for the journey being 23s. On arrival at Euston, Keohane handed the return half of the ticket to Greaver. They were both guilty of fraud because the transfer was made and accepted in order that Greaver should use the ticket without having previously paid his fare, and in order to avoid doing so. By-law 6 of the appellants' by-laws and regulations reads: "No person shall sell or buy or attempt to sell or buy any ticket (which expression . . . includes any passenger ticket, season ticket, . . . and any portion detached from the remainder of any such ticket . . .) or transfer or receive any partly-used ticket or any season ticket to or from any other person with intent that any person shall use the same for the purpose of travelling . . . upon the railway, unless the ticket shall at the time of issuing thereof purport to be transferable, and no person shall knowingly and wilfully use or attempt to use any ticket which has been sold, bought, transferred or received in contravention of this by-law." Transactions with the company's servants or agents were excepted from the by-law. The respondents pleaded "guilty," but the magistrate, holding that the by-law was void and *ultra vires* as being repugnant to the general principles of law, dismissed the informations.

LORD HEWART, C.J., said that, while he agreed with the magistrate that the by-law threw the net very wide, he (his lordship) was not prepared to say that the magistrate was right in holding that it was *ultra vires*. By s. 5 (3) of the Regulation of Railways Act, 1889, if anyone travelled or attempted to travel on a railway without having previously paid his fare, and with the intention of avoiding payment, he was guilty of an offence. If the information had been laid under that section, conviction must have followed on the finding that both respondents were guilty of fraud. That section had been the subject of judicial interpretation in *Reynolds* v. *Beasley* [1915] 1 K.B. 215, where it had been held that the payment referred to must be payment to the railway company or its duly authorised agent or servant. In his opinion, the by-law represented a very careful endeavour by the company to prevent the sale and purchase of railway tickets by or from persons who were not their duly authorised servants or agents, because in ninety-nine cases out of a hundred such transactions were for avoiding payment of either the whole fare or some proper portion of it. Looking at the matter in that way, he was of opinion that the by-law could be supported. Counsel had referred to *Gentel* v. *Rapps* [1902] 1 K.B. 160, and to a passage from the judgment of Channell, J., at p. 166. There was no element of the general law which said that the transfer, purchase or sale of railway tickets otherwise than from a railway company or its duly authorised agent or servant was lawful, and it seemed to him that the by-law was valid in that its purpose was to prohibit transactions which must in general be fraudulent. The appeal must be allowed, and the case must go back to the magistrate with direction to find the offences charged proved.

SWIFT and DU PARCQ, JJ., agreed.

COUNSEL: *Goldie*, K.C., and *Clive Burt*. There was no appearance by or on behalf of the respondents.

SOLICITOR: *Alexander Eddy*.

[Reported by R. C. CALBURN, Esq., Barrister-at-Law.]

[For Table of Cases previously reported in current volume see page iii of Advertisements.]

Societies.

The Magistrates' Association.

The fifteenth annual general meeting and conference of this Association was held on 21st October, at the Guildhall. After the Lord Mayor had opened the proceedings, the chair was taken by Sir Edward Marlay Samson, K.B.E., K.C., Chairman of Council, who read a message from the Minister of Transport, outlined the work of the Council during the year, and moved the adoption of the annual report and balance sheet. He referred with regret to the illness of the Lord Chancellor, who was re-elected President, and it was agreed to send a message of sympathy.

A discussion on the report of the Departmental Committee on Social Services in Courts of Summary Jurisdiction was opened by the Earl of Feversham, who emphasised the importance of securing a first-class probation system. The Committee had, he said, recommended the employment of trained social workers in a public service controlled by the magistrates and paid for by the State. Valuable as was the work of voluntary societies and wide as would be the scope for them in the future, they could not be asked to shoulder the expense of the efficient service envisaged by the committee. If the probation officer could not be a whole-time official he should be described as an assistant and should work under the supervision of a whole-time officer. Precedence had been given to conciliation in matrimonial cases, because the committee had come into being as the result of public interest in this question. The report recommended that one magistrate and the clerk should first see the parties to ascertain whether there was a *prima facie* case for a summons and to discuss conciliation. The social work of conciliation must be kept apart from the legal procedure of the court. The conciliator —the probation officer or such other person as the court wished to appoint—could, if he failed to effect conciliation, materially help the presentation of the case by providing a report of facts and allegations to form a basis for the court examination. The report of a trained social worker was of great value when it came to settling the terms of an order but the parties to the application should be able to challenge the social worker in the witness-box.

In the subsequent discussion several speakers felt most strongly that conviction should not be recorded when the magistrates decided to place offenders on probation. Lord Feversham, however, pointed out that grave harm would be

done if offenders came to regard probation as equivalent to a finding of "not guilty." Some speakers felt that the record of a conviction made it difficult for offenders to get work or enter the services, while others suggested that work so obtained would be obtained on false pretences and plenty of employers would co-operate in social service by employing those who had been before the courts whether labelled with a conviction or not.

THE MONEY PAYMENTS ACT, 1935.

Mr. W. SHAW, Clerk to the Manchester City Justices, read a paper on the Money Payments (Justices Procedure) Act, 1935. He pointed out that the object of the Act was to make it impossible for anyone to go to prison for debt unless there was wilful refusal or culpable neglect to pay. The debts which came under the provisions of the Act were failure to pay fines, matrimonial and affiliation moneys, and rates. The magistrates could, in a few cases, fix a term of imprisonment in event of default, but in most cases they would see the offender again when default arose and go carefully into the circumstances before deciding on the action to take. They might then adjourn the case allowing further time, or arrange for instalment payment, perhaps under supervision. Mr. Shaw thought that magistrates did not fully appreciate the usefulness of a sentence of detention for one night in police cells, which was more suitable for default from small fines than the expensive and disproportionate sentence of seven or fourteen days in a prison. In the subsequent discussion Mr. Claud Mullins advised magistrates not to trouble too much about the rule that this one-day sentence had to be on the day of conviction; nobody could appeal against an infringement except the defendant, and he was not likely to do so.

Mrs. M. STOCKS, B.Sc., J.P. (Manchester), spoke on the relationship between the public assistance authorities and the magistrates, and urged magistrates to consider what attitude they were going to take when asked to convict under the Vagrancy Act for refusal or neglect to provide maintenance. She instanced a municipal crossing-sweeper who had given up his job when transferred to night work because he could not sleep in the day time. The magistrates had felt that he might at least have given it a longer trial than three days and had convicted him. She had doubted the legality of this application of the Act, and had found in *Attorney-General* v. *Merthyr Tydfil Guardians* that Lord Justice Romer had specifically said that the Act was applicable for wilful and persistent refusal to maintain. Some time later she had had the opportunity of dealing with a similar case where a man had given up one job and actually obtained another, but in the meantime his family had become chargeable. She and her colleague had dismissed the case on the ground that a single act of voluntary leaving did not constitute wilfully refusing or neglecting to maintain under the Vagrancy Act, 1824. They had hoped for an appeal, but the Public Assistance Committee had taken no notice and had gone on bringing similar cases before other magistrates. They had also hoped that perhaps the trade unions would notice that the committee's interpretation would bring within the scope of prosecution all those who had been disallowed benefit for voluntary leaving. There was a stratum of the population where wage standards and relief scales overlapped, and that was going to become wider as public impatience with malnutrition reflected itself. In the future there would be more and more cases where a man best served his family by losing his job. Magistrates ought to decide definitely whether they would co-operate with the public assistance committees in their policy of maintaining a generous domiciliary relief while leaving to the magistracy the problem of protecting public moneys from those who preferred relief to work. She herself thought that a better answer would be for the magistrates to say that it was not their duty to decide whether a man in a particular instance had been unreasonable in giving up his work, and to insist that the public assistance committees should use their own deterrent machinery to test his willingness to work and should not ask the magistrates to interfere until they could bring evidence of wilful persistence.

Sir JOHN SIMON also addressed the conference, expressing his confidence in the lay magistracy and his belief that they played a most valuable part in manifesting the fundamental sense and fairness of the English law, which was not a highly technical mystery but something which appealed to the ordinary citizen.

The Hardwicke Society.

A meeting of the Society was held on Friday, 23rd October, at 8.15 p.m. in the Middle Temple Common Room, the President, Mr. J. A. Petrie, in the chair. Mr. G. E. Llewellyn-Thomas (Hon. Treasurer) moved: "That in the opinion of this House the administration of justice by an unpaid magistracy is an anachronism and should be abolished." Mr. Norman F. Stogdon opposed. There also spoke Mr. Fearnehough, Mr. MacGregor, Mr. J. A. Petrie, Mr. Rowe, Mr. Grieves, Mr. Lewis Sturge, Miss McGarvey, Mr. Willand Sexton, Mr. Bentliffe, Mr. Harper and Mr. M. J. Morris. The hon. mover having replied, the House divided, and the motion was lost by four votes.

United Law Society.

A meeting of the United Law Society was held in the Middle Temple Common Room on Monday, 12th October, at 8 p.m. Mr. F. D. Lawton proposed the motion: "That this House would regret any revision of the present position as to mandated territories and other colonial possessions in favour of Germany." Mr. J. H. V. Hall opposed. Messrs. Hill, Bartholomew, Herbertson, Taylor, Pritchard, Ball, Raffetty (a visitor) and McQuown also spoke, and the motion was put to the House and carried by one vote. There were twelve members and two visitors present.

University of London Law Society.

A joint debate was held at the University College, Gower Street, on Tuesday, 27th October, between The University of London Law Society and The Gray's Inn Debating Society, on the motion: "That the British Government's policy regarding the civil war in Spain is worthy of condemnation."

Mr. Betuel, LL.B., barrister-at-law (President) welcomed Captain Parker, the President of the Gray's Inn Society and his fellow members. Proposers: C. Levy (University), R. C. Manning (Gray's Inn); Opposers: B. H. Alcazar (Gray's Inn), D. Sacker (University). Those who took part in the debate were: Messrs. D. R. H. F. Davis, Monhyanan, Furtardo, A. Potehokhoff, B. J. Yahuda and Rehman. The motion was lost by thirty votes to eight.

The inaugural meeting of The University of London Law Society proved a great success. There was a large attendance. Dr. G. O. Keeton, Reader in English Law in the University, delivered an address on "Legal Education." In his very able lecture he traced the growth of legal education at the University, and explained the importance of the close relationship that should exist between academic and professional examinations. He thought the day would arrive when every student reading for the Bar or Solicitors Examination would have a degree. He wished to see an Institute for Advanced Legal Studies established in the University. The President proposed a vote of thanks for Dr. Keeton's erudite address, which was carried with acclamation.

Rules and Orders.

I, DOUGLAS MCGAREL VISCOUNT HAILSHAM, Lord High Chancellor of Great Britain, by virtue of the County Courts Act, 1888, and all other powers enabling me in this behalf, do hereby order as follows:—

(1) His Honour Judge Drucquer shall cease to be the Judge of the districts of the County Court of Oxfordshire held at Banbury and the County Courts of Warwickshire held at Stratford-on-Avon and Warwick, and His Honour Judge Cotes-Preedy, K.C., shall be the Judge of the said districts in addition to the districts of which he is now the Judge.

(2) His Honour Judge Drucquer shall sit as additional Judge at the County Court of Surrey holden at Wandsworth.

(3) This Order shall come into operation on the 1st day of January, 1937.

Dated the 26th day of October, 1936.

Hailsham, C.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve a recommendation of the Home Secretary that Sir ALBION RICHARDSON, K.C., C.B.E., be appointed Recorder of Nottingham, to succeed the late Mr. J. F. Eales, K.C., M.P. Sir Albion Richardson has been Recorder of Warwick since 1931. He was called to the Bar by Gray's Inn in 1912.

It is announced by the Colonial Office that the King has been pleased to approve the appointment of Mr. H. H. TRUSTED, Attorney-General, Palestine, to be Chief Justice in that territory in succession to Sir Michael McDonnell

who is about to retire. Mr. Trusted was called to the Bar by the Inner Temple in 1913. He will be succeeded as Attorney-General, Palestine, by Mr. W. J. FITZGERALD, M.C., who has been Attorney-General, Northern Rhodesia, since 1933.

The Lord Chancellor has appointed Mr. DIGBY COTES-PREEDY, K.C., of Fladbury Lodge, Gerrards Cross, Buckinghamshire, and Mr. REGINALD CLARE ESSENHIGH, of 18, Holmwood Gardens, Wallington, Surrey, to be Judges of County Courts, and has made the following arrangements in connection with the vacancies caused by the decease of Judge Randolph and Judge McCleary: Judge FRANKLAND to be the judge of Circuit No. 12 (Bradford, Halifax, etc.); Judge COTES-PREEDY, K.C., to be the Judge of Circuit No. 36 (Oxford, etc.); and Judge ESSENHIGH to be the Judge of Circuit No. 13 (Sheffield, etc.).

Mr. Justice FARWELL has been elected chairman of the Council of Legal Education in place of Lord Justice Greer, who has resigned the office after holding it since 1934. Lord Justice GREENE has been elected vice-chairman of the council and chairman of the Board of Studies.

Mr. A. C. CROASDELL, Assistant Solicitor to the Salisbury Corporation, has been appointed to a similar position with the Hayes and Harlington Urban District Council. Mr. Croasdell was admitted a solicitor in 1932.

Notes.

After forty years' public service, Dr. E. W. Maples is retiring from the posts of clerk to the Herefordshire County Council and clerk of the peace for Herefordshire.

Mr. J. C. Parker, for thirty years clerk to the High Wycombe Borough magistrates, a position held for many years by his father, is to retire shortly. Mr. Parker was admitted a solicitor in 1897.

The governors of the College of Estate Management have awarded a Travelling Scholarship in Agriculture to Mr. Claude Culpin, University Demonstrator in Agricultural Engineering, at the School of Agriculture, Cambridge University.

Mr. William Henry Barker, solicitor's clerk, of Hull, died on Sunday, 18th October, in his ninetieth year. He had worked in the same room, at the same desk, and sat on the same stool for seventy-eight years since he entered the office as a boy of eleven.

Mr. John Birch, clerk to the Blackburn Rural District Council, is to resign next year on completion of fifty years' service with the council. He is an authority on rating matters and is Hon. Treasurer to the Rural District Councils' Association.

A sessional evening meeting of the members of The Auctioneers' and Estate Agents' Institute of the United Kingdom, will be held at 29, Lincoln's Inn Fields, W.C.2, on Thursday, 5th November, at 7 p.m., when Mr. N. E. Mustoe, M.A., LL.B., Barrister-at-law, will deliver a paper entitled "Income Tax on Land."

Court Papers.

Supreme Court of Judicature.

Date.	Emergency Rota.	Appeal Court No. I.	Group I. Mr. Justice Eve. Witness. Part II.	Mr. Justice Bennett. Non-Witness
	Mr.	Mr.	Mr.	Mr.
Nov. 2	Hicks Beach	Ritchie	*Hicks Beach	Jones
,, 3	Andrews	Blaker	Blaker	Hicks Beach
,, 4	Jones	More	*Jones	Blaker
,, 5	Ritchie	Hicks Beach	*Ritchie	More
,, 6	Blaker	Andrews	Andrews	Ritchie
,, 7	More	Jones	More	Andrews
	Group I.		Group II.	
	Mr. Justice Crossman. Witness. Part I.	Mr. Justice Clauson. Witness. Part I.	Mr. Justice Luxmoore. Non-Witness.	Mr. Justice Farwell. Witness Part II.
	Mr.	Mr.	Mr.	Mr.
Nov. 2	*Blaker	*Andrews	More	Ritchie
,, 3	*Jones	*More	Ritchie	*Andrews
,, 4	*Hicks Beach	*Ritchie	Andrews	More
,, 5	Andrews	*Blaker	Jones	Hicks Beach
,, 6	*More	Jones	Hicks Beach	*Blaker
,, 7	Ritchie	Hicks Beach	Blaker	Jones

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 5th November, 1936.

	Div. Months.	Middle Price 28 Oct. 1936.	Flat Interest Yield. £ s. d.	‡Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	115½	3 9 3	2 19 3
Consols 2½%	JAJO	85¼	·2 18 8	—
War Loan 3½% 1952 or after	JD	106¼xd	3 5 10	3 0 0
Funding 4% Loan 1960-90	MN	117½	3 8 1	2 19 5
Funding 3% Loan 1959-69	AO	102¼	2 18 8	2 17 2
Funding 2½% Loan 1956-61	AO	93½	2 13 6	2 17 7
Victory 4% Loan Av. life 23 years	MS	115½	3 9 3	3 1 0
Conversion 5% Loan 1944-64	MN	118	4 4 9	2 3 11
Conversion 4½% Loan 1940-44	JJ	110	4 1 10	2 7 2
Conversion 3½% Loan 1961 or after	AO	107¾	3 4 11	3 0 10
Conversion 3% Loan 1948-53	MS	104½	2 17 6	2 11 0
Conversion 2½% Loan 1944-49	AO	101¼	2 9 4	2 6 3
Local Loans 3% Stock 1912 or after	JAJO	97¾	3 1 4	—
Bank Stock	AO	380	3 3 2	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	89	3 1 10	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	97	3 1 10	—
India 4½% 1950-55	MN	114½xd	3 18 7	3 3 11
India 3½% 1931 or after	JAJO	99½	3 10 4	—
India 3% 1948 or after	JAJO	88	3 8 2	—
Sudan 4½% 1939-73 Av. life 27 years	FA	118	3 16 3	3 9 3
Sudan 4% 1974 Red. in part after 1950	MN	114½	3 9 10	2 14 10
Tanganyika 4% Guaranteed 1951-71	FA	115	3 9 7	2 13 11
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	111	4 1 1	2 3 2
Lon. Elec. T. F. Corpn. 2½% 1950-55	FA	96	2 12 1	2 15 6
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	111	3 12 1	3 4 4
*Australia (C'mm'nw'th) 3¾% 1948-53	JD	105	3 11 5	3 4 10
Canada 4% 1953-58	MS	113	3 10 10	3 0 2
*Natal 3% 1929-49	JJ	102	2 18 10	—
*New South Wales 3½% 1930-50	JJ	102	3 8 8	—
*New Zealand 3% 1945	AO	101	2 19 5	2 17 4
Nigeria 4% 1963	AO	115	3 9 7	3 3 4
*Queensland 3½% 1950-70	JJ	102	3 8 8	3 6 2
South Africa 3½% 1953-73	JD	108	3 4 10	2 18 0
*Victoria 3½% 1929-49	AO	101	3 9 4	—
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	99	3 0 7	—
*Croydon 3% 1940-60	AO	101	2 19 5	2 13 1
Essex County 3½% 1952-72	JD	106½	3 5 9	2 19 8
Leeds 3% 1927 or after	JJ	97	3 1 10	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	106	3 6 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	82	3 1 0	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	97	3 1 10	—
Manchester 3% 1941 or after	FA	97½	3 1 6	—
*Metropolitan Consd. 2½% 1920-49	MJSD	100½	2 9 9	—
Metropolitan Water Board 3% "A" 1963-2003	AO	99	3 0 7	3 0 8
Do. do. 3% "B" 1934-2003	MS	98½	3 0 11	3 1 1
Do. do. 3% "E" 1953-73	JJ	102	2 18 10	2 16 11
Middlesex County Council 4% 1952-72	MN	113½	3 10 6	2 18 7
† Do. do. 4½% 1950-70	MN	115	3 18 3	3 3 1
Nottingham 3% Irredeemable	MN	96	3 2 6	—
Sheffield Corp. 3½% 1968	JJ	108	3 4 10	3 2 0
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	117	3 8 5	—
Gt. Western Rly. 4½% Debenture	JJ	127½	3 10 7	—
Gt. Western Rly. 5% Debenture	JJ	138½	3 12 2	—
Gt. Western Rly. 5% Rent Charge	FA	135½	3 13 10	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	133½	3 14 11	—
Gt. Western Rly. 5% Preference	MA	125	4 0 0	—
Southern Rly. 4% Debenture	JJ	115	3 9 7	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	112½	3 11 1	3 5 6
Southern Rly. 5% Guaranteed	MA	133½	3 14 11	—
Southern Rly. 5% Preference	MA	125	4 0 0	—

*Not available to Trustees over par. †Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated at the earliest date; in the case of other Stocks, as at the latest date.

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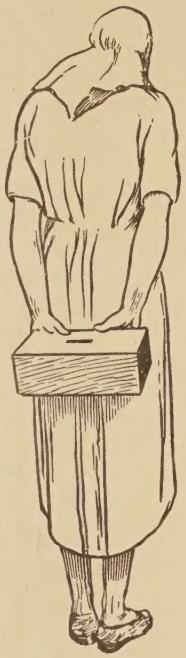

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